Department of Transportation
Urban Mass Transportation Administration
Washington, D.C. 20590

CIRCULAR

UMTA C 9060.1

April 20, 1978

SUBJECT: INTERNAL PROCEDURES FOR SECTION 5 OPERATING ASSISTANCE PROJECTS

1. PURPOSE. This is an internal procedures circular for Section 5 operating assistance grants. This circular provides policy guidance, program administrative procedures and basic instructions for processing designations of recipients, applications, requisitions, etc.

2. REFERENCES.

   a. UMTA N 1340.2, "Interim Applications Instructions for Section 5 Capital and Operating Assistance Projects," dated 3-14-75, as amended.

   b. UMTA C 9050.1, "Application Instructions for Section 5 Operating Assistance Projects," dated 6-10-77.

   c. UMTA personnel should also refer to the new Grant Application Processing and Approval Procedures Circular and the Internal Project Management Guidelines Circular for additional procedures on application and approval processing, and for detailed guidelines on project management.

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Administrator

DISTRIBUTION: UMTA Headquarters Offices (U-W-4)
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OPI: Office of Transit Assistance

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CHAPTER I
ELIGIBLE SECTION 5 PROJECTS

1. Introduction. This chapter outlines a basic definition of eligible Section 5 capital and operating assistance projects, consistent with the language of Section 5(d)(1) of the Urban Mass Transportation Act of 1964, as amended (hereafter referred to as the UMT Act or "the Act"). Additional information is provided in the Interim Guidelines for Capital and Operating Assistance Projects published in the Federal Register on January 13, 1975.

2. Capital Assistance Projects. Section 5(d)(1)(A) of the UMT Act defines an eligible Section 5 capital assistance project as "the acquisition, construction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service." Section 5(a)(1) further defines "construction" as "the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites." Further definition of eligible projects under Section 5 is provided in Chapter 2 of this circular.

3. Operating Assistance Projects. Section 5(d)(1)(B) of the UMT Act defines an eligible Section 5 operating assistance project as "the payment of operating expenses to improve or continue such (mass transportation) service by operation, lease, contract, or otherwise."

   UMTA has given some further definition to an eligible operating assistance project, as follows: "The payment of eligible transit operating expenses incurred on an accrual basis during one local fiscal year associated with the improvement or continuation of mass transportation which serves an urbanized area." The following chapters of this circular provide explicit, detailed guidance for determining the eligibility of specific projects within the basic overall definition.

action. Therefore, UMTA will review the basis for any operator's nonconcurrence in each case to determine the appropriate actions. Where a publicly owned operator takes no action either to concur or nonconcur within a reasonable period of time, such inaction will be interpreted as concurrence.

Q. How long do designations remain in effect?

A. Designations (other than by the Administrator) remain in effect throughout the life of Section 5 or until changed. There is no requirement for redesignation of recipients after the initial designation has been approved.

Q. Can there be more than one designated recipient in an urbanized area?

A. Yes.

Q. Can local entities place conditions upon the designation of recipients? For example, can an entity be designated only to receive funds on behalf of certain operators, projects, or types of projects?

A. Yes. Such conditions, if any, should be specified during the designation process.

Q. If an operator meets the "in any case" criteria, can it waive designated recipient status and concur in the designation of another entity?

A. Yes. However, if such an operator wishes to be designated, it must be designated.

Q. If a Governor designates another State agency as the recipient for areas under 200,000, can such agency redesignate individual local recipients?

A. Yes.

Q. Can the Governor or a State agency be designated as the recipient for areas over 200,000?

A. Yes, provided there is the necessary concurrence by publicly owned transit operators and responsible local officials acting through the MPO.

Q. If the Governor designates a State agency to act as the designated recipient for areas under 200,000, must any additional documentation be submitted?

A. Yes. The designated agency must submit an opinion of counsel certifying its legal capacity to carry out the functions required of a designated recipient, in addition to evidence of the Governor's designation.

Q. May a designated recipient waive legal responsibility for carrying out a project?

A. UMTA discourages entities which do not intend to accept such responsibility from seeking designated recipient status. However, such recipients can transfer legal responsibility for a project to the transit operator under a tripartite grant contract (where the operator is a public body). See UMTA C 9050.1, page I-4.

Q. If the Governor or a designated State agency gives up designated recipient status (i.e., by redesignating local recipients) what control does he retain over the Section 5 program in his State?

A. In and of itself, designated recipient status is not a significant source of control over Section 5 activities. In any case, the Governor retains responsibility to allocate formula funds among urbanized areas under 200,000, concur in designations for areas over 200,000, and comment on the programming of formula funds in the annual elements of each area's TIP.

Q. Can a designated recipient refuse to apply for funds on behalf of another operator?

A. Yes. Presumably in such cases another entity would be designated to apply for the operator in question. If no entity is willing to submit an application for the operator, the project should not have been programmed in the first place.

Q. If a designated recipient is applying for assistance on behalf of another operator, who is responsible for preparing the application?

A. This is a matter of local discretion which varies from one area to another. Some designated recipients bear total responsibility for preparing applications on behalf of local operators; others insist the operators themselves take the lead in developing the necessary documentation and exhibits. However, it is required that certain specific certifications and assurances be signed by the designated recipient, no matter who prepared the rest of the application.

Q. Does the designated recipient have to bear the cost of holding public hearings?

A. Not necessarily. However, the recipient is responsible for certifying that a public hearing has been held and for signing the 5(i) certification.

Q. What happens if local entities cannot reach agreement in the designation of recipients?

A. There is provision for the UMTA Administrator to designate a recipient in such extraordinary situations. However, the Administrator will act only where the local designation process has been given a reasonable opportunity to reach accord and only where his designation action is crucial to the flowing of needed funds. Designations by the Administrator are expected to be of limited duration (usually not more than one program year), after which the necessary local designation process must be completed.

Q. Must the designated recipient in an urbanized area be the transit operator?

A. No (unless the operator meets the "in any case" criteria).

Q. Can an MPO be the designated recipient for an urbanized area?

A. Yes, provided that it has the legal capacity to perform the functions of a designated recipient.

Q. How should MPOs and transit operators document their concurrence in designation actions?

A. Such concurrence should be documented by a certified resolution passed by the entity's appropriate decisionmaking body (usually the board of directors, etc.).

Q. Is the concurrence of privately owned transit operators required?

A. No.

Q. What is the procedure for changing the designation of recipients?

A. The deletion of a previously designated recipient, the addition of a new recipient, or the substitution of a

new recipient for one previously designated should be performed by the same process used for the original designation.

Q. In multistate urbanized areas, does UMTA require a single recipient?

A. No. UMTA does encourage that a single recipient be designated; however, in practice this has not occurred frequently in such areas.

Q. Is a designated recipient automatically entitled to receive Section 5 funds?

A. No. Nothing guarantees that a designated recipient will be programmed to receive funds (or that its application will be approved).

3. Approval by UMTA. This paragraph outlines procedures for the review, processing, and approval of designations of Section 5 recipients. The same procedures used to concur with or acknowledge an initial designation action apply, with appropriate alterations, to the addition or deletion of new recipients in an urbanized area.

External procedures for designating Section 5 recipients are provided in UMTA C 9050.1, page I-20. Designation documents will be transmitted directly to the cognizant UMTA regional office. Upon receipt, these documents should be logged-in and forwarded to the appropriate transportation representative for review. The following subsections provide specific guidance for the review and approval of designation actions in urbanized areas of over and under 200,000 population.

a. Designation Approvals in Areas Over 200,000 Population. UMTA must concur in the designation of Section 5 recipients in areas over 200,000 population. In reviewing the submission of designation documents from these areas, transportation representatives should give careful attention to the general policies outlined in the preceding sections of this chapter, particularly regarding the types of eligible recipients, "in any case" entities, and designations in multistate urbanized areas.

In reviewing the material submitted, transportation representatives should utilize the memorandum form provided in Figure 1. A designation approval letter is then prepared (see Figure 2) and together with the memorandum form is forwarded to the regional office

legal counsel for concurrence. Procedures for legal review of designation actions are provided in UMTA C 2020.1. Following approval by the Regional Director, the designation documents, yellow grid copy of the approval letter, and memorandum form are retained in the "entity-based" file for the respective urbanized area.

b. Designation Acknowledgments in Areas Under 200,000 Population. Pursuant to Section 5(b)(2), the Governor of each State is the designated recipient of formula funds apportioned for urbanized areas of less than 200,000 population. As such, formal approval by UMTA of designations in these areas is not required. UMTA C 9050.1, page I-21, indicates a range of options available to the Governor regarding designations in areas under 200,000.

Where the Governor chooses to retain designated recipient status directly, no action is required. However, where the Governor delegates responsibility to another State agency, designates local recipients, or delegates responsibility to another agency which in turn designates local recipients, the submission of documentation prescribed in UMTA C 9050.1 and UMTA acknowledgment thereof is required.

In reviewing the material submitted, transportation representatives should utilize the memorandum form provided in Figure 3. An acknowledgment letter is then prepared (see Figure 4) and together with the memorandum form is forwarded to the regional office legal counsel for concurrence. Procedures for legal review of designation are being developed by UCC. Following concurrence by the legal counsel and signature by the Regional Director, the designation documents, yellow grid copy of the acknowledgment letter, and memorandum form are retained in the "entity-based" file for the respective urbanized area.

4. Examples. The following examples illustrate how different arrangements involving the designation of recipients have been adopted by various urbanized areas:

a. Areas over 200,000 Population

(1) Single Operator/Single Designation/Single-State Area--Atlanta: MARTA

(2) Single Operator/Multiple Designations--Washington, D.C.: WMATA, WSTC, NVTC, D.C. Government

(3) Multiple Operators/Single Designation--San Francisco: MTC

(4) Multiple Operators/Multiple Designations/One-State Area--Cleveland: NOACA, RTA

(5) Multiple Operators/Multiple Designations/Multi-State Area--Cincinnati: SORTA, TANK

(6) Single Operator/Single Designation/Multi-State Area--Memphis: City of Memphis

(7) State Agency Designated--New Jersey

(8) Single Recipient Designated for Multiple Areas--RTA: Chicago (IL portion), Joliet, Elgin

b. Areas Under 200,000 Population

(1) Governor Retains Designated Recipient Status--California

(2) Governor Delegates to State Agency Which Designates Local Recipient--Ohio

(3) State Agency Retains Designated Recipient Status--New Jersey

(4) Governor Designates Local Recipients--Pennsylvania

CHAPTER II
DESIGNATION OF RECIPIENTS

1. Introduction. Section 5(b)(2) of the UMT Act provides that formula grant assistance must flow to individual transit operators through one or more designated recipient agencies in each urbanized area. In areas over 200,000 population, designations of recipients require the joint concurrence of the Governor(s), publicly owned transit operators, and "responsible local officials" acting through the Metropolitan Planning Organization (MPO), as well as UMTA. The Governor of each State or his designee is the designated recipient for areas under 200,000 population.

   Procedures for the designation of Section 5 recipients are detailed in UMTA C 9050.1, pages I-20 through I-22; the implications of designated recipient status at the application stage are discussed on pages I-1 through I-3.

2. Eligibility Requirements for Designation. This paragraph provides UMTA policy on a variety of specific issues concerning the designation of recipients and internal procedures for the concurrence or acknowledgment of local designations. At this time, the guidance provided is intended primarily to supplement that cited above in UMTA C 9050.1 through a series of questions and answers.

   Q. Can an operator not designated as a recipient receive Section 5 funds?

   A. Yes. Such operators receive funds through a designated recipient; designation is not prerequisite to the eligibility to receive assistance, but the designated recipient must always be a signatory to the grant contract. See UMTA C 9050.1 for more information regarding the flow of funds and procedures for executing Supplemental Agreements where the designated recipient and transit operator are different.

   Q. Can a private agency be designated as a recipient?

   A. No. Only public entities can be designated recipients.

   Q. In a multistate urbanized area, must both Governors and both MPOs (if there is more than one) concur in each other's designations?

   A. UMTA encourages coordination and cooperation within multistate urbanized areas in the designation of recipients. Where a single entity is to be designated as the recipient for both States' portions of the area,

concurrence by both Governors and MPOs is required. However, nothing precludes each State's portion from having a separate designated recipient. In the latter cases, UMTA again encourages coordination and cooperation; however, UMTA will approve designations for one State's portion where the other State has not acted.

Q. Can a Governor delegate his responsibilities under Section 5 to a State agency?

A. Yes. Such delegations should be communicated to UMTA by letter.

Q. Can a Governor designate separate recipients for each urbanized area under 200,000?

A. Yes. (In such instances, concurrence by the MPO and/or publicly owned operators is not required. However, the designated agency must submit an opinion of counsel certifying its legal capacity to act as the designated recipient.)

Q. Can a Governor designate another State agency as the recipient for areas under 200,000?

A. Yes. Note there is a distinction between Governors' delegating responsibilities to a State agency and designating such agencies as Section 5 recipients. In the latter case, an opinion of counsel must be submitted. Designations which cover urbanized areas over 200,000 also require concurrence of public operators and the MPO.

Q. How is designation by "responsible local officials" carried out?

A. Official or formal action on the part of the MPO's governing body constitutes the necessary designation action by responsible local officials.

Q. Must concurrence of designations by publicly owned operators of mass transportation services be unanimous where there is more than one such operator in an urbanized area?

A. UMTA strongly encourages all actors in the local designation process to reach agreement in a proper and orderly fashion. At the same time, UMTA does not seek to allow a single operator among many to hold the flowing of funds hostage to a negative designation

DESIGNATION OF SECTION 5 RECIPIENT

Urbanized Area Over 200,000 Population

Urbanized Area: _____

Designated Recipient(s): _____

_____

_____

The attached documents have been prepared in conformance with UMTA C 9050.1. Based upon a review of these documents, the following determinations have been made:

1. The Governor(s) or the Governor's designee has concurred in writing with the subject designation.

2. All publicly owned operators of mass transportation services in the subject urbanized area have concurred in writing with the subject designation.

3. The responsibility policy-making body of the designated Metropolitan Planning Organization has concurred by a properly certified resolution or other appropriate action with the subject designation.

4. The designated recipient(s) has(have) submitted an opinion of counsel certifying its(their) legal capacity to perform the functions of a designated recipient.

5. All entities, if any, which are subject to the "in any case" provision of Section 5(b) (2) have been included in the subject designation or have waived designated recipient status.

This action is for the purpose of:

____ the initial designation of recipients.
____ adding new recipients to those designated previously.
____ substituting new recipients for those designated previously.
____ deleting a previously designated recipient.

_____ Date:

CONCUR: _____
Legal Counsel

Date: _____

APPROVED: _____
Regional Director

DATE: _____

Figure II-1

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

Name and Address of
Designated Recipient

Re. Designated Recipient for
the_____Urbanized Area

Dear:

I am pleased to concur in the designation of the following entity as the designated recipient for the_____urbanized area pursuant to Section 5 of the Urban Mass Transportation Act of 1964, as amended:_____.

Sincerely,

Regional Director

cc. Metropolitan Planning Organization
Governor
Other Designated Recipients, if any

Figure II-2

DESIGNATION OF SECTION 5 RECIPIENT

Urbanized Area Under 200,000 Population

Urbanized Area(s):_____

Designated Recipient(s): _____

_____

_____

The attached documents have been prepared in conformance with UMTA C 9050.1. Based upon a review of these documents, it is determined that the requirements for designation of recipients have been met, as indicated below:

____ The Governor has designated a State agency to act as designated recipient for the subject urbanized area(s).

____ The Governor has designated a local entity (or entities) to act as designated recipient(s) for the subject urbanized area(s).

____ The Governor has delegated responsibility for designating recipients to a State agency which has retained designated recipient status for the subject urbanized area(s).

____ The Governor has delegated responsibility for designating recipients to a State agency which has designated a local entity (or entities) to act as designated recipients(s) for the subject urbanized area(s).

The designated recipient(s) noted above has(have) submitted an opinion of counsel certifying its(their) legal capacity to perform the functions of a designated recipient.

This action is for the purpose of:

____ the initial designation of recipients.
____ adding new recipients to those designated previously.
____ substituting new recipients for those designated previously.
____ deleting a previously designated recipient.

_____Date:

CONCUR: _____ _____
Legal Counsel Regional Director

Date: _____ _____

Figure II-3

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

Name and Address of
Governor or Governor's
Designee

Re. Designated Recipient for
the_____Urbanized Area

Dear:

I am pleased to acknowledge your recent designation of_____ as the designated recipient for the subject urbanized area pursuant to the provisions of Section 5 of the Urban Mass Transportation Act of 1964, as amended.

Sincerely,

Regional Director

cc. Designated Recipient(s)
Metropolitan Planning Organization

Figure II-4

CHAPTER III
URBANIZED AREAS

1. Introduction. Section 5(b) of the UMT Act specifically limits formula grant assistance to urbanized areas. This chapter provides policy and procedural guidance regarding the definition of urbanized areas and their implications for Section 5 programming.

2. Definition of Urbanized Areas. Section 5(a)(3) of the UMT Act defines "urbanized areas" as an area "so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census."

   Urbanized areas are designated by the Bureau of the Census according to rigorous criteria following each decennial census. At this time, there are 279 urbanized areas, as listed in the annual apportionment of Section 5 funds. In general, an urbanized area is a central city of 50,000 or more population and certain adjacent territory which meets definitional criteria established by the Census Bureau. Urbanized areas cannot be designated except by the Census Bureau, and it will designate new areas only on the basis of a new Census. Cities which seek designation as urbanized areas should be directed to the Census Bureau for more information.

3. Boundary Fixing Procedure. Although the designation of urbanized areas is rigidly administered by the Census Bureau, the boundaries of an urbanized area are subject to alteration by State and local officials. This language was added to Section 5(a)(3) to conform with similar arrangements provided under Title 23 of the U.S. Code which establishes the Federal Highway program.

   This provision enables State and local officials, in cooperation with each other, to propose urbanized area boundaries different from those designated by the Census Bureau. As indicated in paragraph 4 of this chapter, the urbanized area boundaries have significant implications for the eligibility of Section 5 projects, and an extension of such boundaries to incorporate adjacent territory may therefore be warranted, consistent with regional transportation plans and programs.

   In any case, boundaries fixed according to these procedures must, at a minimum, incorporate all of the urbanized area

as designated by the Census Bureau. Boundaries which have been extended beyond the Census Bureau's designation can be altered further or reduced back to the area designated by the Census Bureau, using the same procedures prescribed for the initial boundary fixing. In no case, however, can the boundaries be altered to encompass less than the entire area designated by the Census Bureau.

Procedures for fixing urbanized area boundaries were proposed in the Federal Register of October 9, 1974 (Figure 1), but have not been finalized at this time. These joint UMTA/FHWA procedures called for the submission of proposed boundary changes to both UMTA and FHWA and for joint approval as a prerequisite for boundary alteration. It must be noted, however, that the proposed procedures published in 1974 appeared before the Section 5 formula grant program became law; therefore, modification to reflect the Section 5 program is now proceeding.

In lieu of a final regulation on urbanized area boundaries, departmental policies governing the boundary fixing process are necessarily informal at this time. However, two basic policies which have been adopted between UMTA and FHWA are:

a. Boundary changes must receive the joint concurrence of UMTA and FHWA; neither agency can unilaterally approve a boundary change.

b. Boundary changes must be applicable to both UMTA and FHWA programs; boundaries cannot be defined one way for Section 5 programming purposes and in another form for FHWA programs.

The above policies will generally preclude major boundary changes in most urbanized areas since such changes will significantly affect the allocation of funds and eligibility of areas for Federal Highway programs.

4. Implications for Project Eligibility. Urbanized areas not only represent the basis on which Section 5 funds are apportioned, but also they define the area within which the eligibility of operating and capital assistance projects is determined. With regard to apportionments, it must be noted that where the boundary fixing provisions described above are employed, the change will only apply to the eligibility of projects as described in this paragraph and not to the apportionment of funds. The latter will always be performed on the basis of urbanized area data collected on the basis of the Census Bureau designation.

The following subsections detail the implications of urbanized area boundaries for operating and capital assistance projects:

a. Capital Assistance Projects. Fixed facilities acquired or otherwise assisted under a Section 5 capital project must be located within the urbanized area boundary. Fixed facilities typically include administrative offices, maintenance and storage facilities, garages, bus stop signs and benches, bus shelters, bus turnouts, rail rights-of-way, stations, etc. Fixed facilities which are physically located outside the urbanized area boundary are not eligible for Section 5 capital assistance. UMTA will make a case-by-case determination regarding the eligibility of individual sites as necessary.

Capital acquisitions involving other than fixed facilities (i.e., rolling stock, maintenance vehicles, etc.) are subject to the same eligibility constraints as apply to operating assistance projects (see 4b). That is, vehicles purchased under Section 5 may be operated outside an urbanized area boundary, provided that the operator "serves" the urbanized area.

b. Operating Assistance Projects. Only mass transportation operators which "serve" an urbanized area are eligible for Section 5 operating assistance. Clearly the term "serve" is ambiguous and will require a careful determination whenever a given service operates outside an urbanized area's boundaries.

An eligible mass transportation service need not operate entirely or exclusively within an urbanized area to receive operating assistance. Similarly, it is not necessary for operators to allocate operating expenses between those associated with service in and outside the urbanized area boundary, provided that the entire service as a whole may be determined to "serve" the urbanized area.

Services which originate outside the urbanized area boundary may be said to "serve" the area if there is at least more than one stop provided within the urbanized area and if the service may be considered to connect with origins and/or destinations located within the urbanized area boundary. Services which operate closed-door within the urbanized area (i.e., which permit passengers to disembark but not to board), but

which do serve destinations within the area, may still be considered eligible.

Excluded from the above are services of an "intercity" nature and other non-mass-transportation services which do not meet the statutory definition provided in Section 12(c) of the UMT Act. Operations which do not meet the statutory definition of mass transportation are ineligible for UMTA assistance, whether or not they may be said to "serve" an urbanized area. Further guidance regarding the definition of eligible mass transportation is provided in Chapter 2 of this Circular.

In general, UMTA expects the local programming of projects to constitute a basic determination of eligibility. Since programmed projects must be consistent with regional planning and since the local decision to assist one operator means less funding left available to assist others, UMTA may give great weight to the local programming in its determination of eligibility for services which operate both within and outside a given area. At the same time, however, services which do not operate at all within an urbanized area are ineligible for Section 5 operating assistance.

Where portions of an overall mass transportation system do exist outside an urbanized area boundary, UMTA shall make a case-by-case determination of eligibility based upon the principles expressed above.

Federal Highway Administration

[23 CFR Part 470]

[Docket No. 74-14]

URBAN AREA BOUNDARIES

Notice of Proposed Rulemaking

The Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA) are considering issuing regulations to implement that part of 23 U.S.C. 101(a) prescribing guidelines for the establishment, submission and approval of urban area boundaries. The proposed regulations would add a new Subpart B to Part 470 (Highway Systems). This subpart would supersede existing PPM 10-5, dated July 23, 1964.

Section 105 of the Federal-Aid Highway Act of 1973 (Pub. L. 93-87, 87 Stat. 250) modifies section 101(a) of title 23, United States Code, and allows the fixing of urban area boundaries in a manner which will provide increased flexibility to various federally aided highway and transit programs.

The regulation defines "urban area" to mean either—

(1) An urban place having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area; or

(2) An urbanized area as designated by the U.S. Bureau of the Census.

In fixing the boundaries of an urban place as defined in the first definition above, the boundaries of the area shall encompass the entire urban place as designated by the U.S. Bureau of the Census plus that adjacent area which shall be fixed by responsible State and local officials in cooperation with each other. The State shall also consult with local public transit operators, where appropriate, in establishing the boundary locations for nonurbanized urban areas.

In determining the boundaries of an urbanized area, the boundaries of the area shall be located so that they encompass the entire urbanized area designated by the Census Bureau within a State plus the adjacent area which shall be fixed by responsible State and local officials in cooperation with each other. A list of urbanized areas may be found in Table 20 of the U.S. Summary of 1970 Census of Population, published by the U.S. Bureau of the Census.

Section 470.202(b) of the regulations defines "responsible local officials" in nonurbanized urban areas to mean the principal elected officials of general purpose local governments. In urbanized areas "responsible local officials" are defined as the principal elected officials of general purpose local governments (and until January 2, 1975, the Commissioner of the District of Columbia) acting through the Metropolitan Planning Organization designated by the Governor.

Section 470.204 (a) requires the State, in addition to cooperating with responsible local officials, to consult with local public transit operators where appropriate in establishing boundary locations for urbanized as well as nonurbanized urban areas. In fixing urban boundaries, it is suggested that the boundaries be fixed so as to smooth out irregularities, maintain administrative continuity of peripheral routes, and encompass fringe areas having residential, commercial, industrial, and/or national defense significance. Transportation and terminals serving the area such as airports and seaports should also be included within the redefined area if they lie within a reasonable distance of the urban area boundary that would otherwise be selected. Careful consideration should be given to the selection of boundary locations which will include logical control points for transportation linkages such as interchanges, major cross roads, etc., where the inclusion of such areas will not unduly distort the urban area boundary which would otherwise be selected.

Urban area and urbanized area boundary determinations should also consider the service areas of transit operations. Such considerations are particularly important if boundaries are to determine eligibility of capital projects, e.g., commuter railroad lines and stations, and rail transit and bus lines.

Urban area boundaries are fixed primarily for capital project funding and are not to be confused with boundaries established for the comprehensive, cooperative and continuing urban transportation planning process.

In cases where a single urban area extends across State borders, the contiguous States are encouraged to agree on the proposed boundary locations at the State line and avoid irregularities.

Section 470.206 sets forth the procedures to be followed by the State highway department in submitting boundary locations for review and approval. Maps shall be of a scale necessary to show all prominent highways and streets, all fixed transit right-of-way facilities, all major bus routes, corporate limits, and township lines, as well as the new limits of the urban area. The maps, together with any supporting documentation, shall be submitted to the FHWA Division Office for review and approval. The submission shall indicate the formal approval of the responsible State and local officials and shall document consultation with local public transit operators.

Section 470.206(b) of the regulations specifies in areas over 200,000 that approvals be made jointly by the Federal Highway and Urban Mass Transportation Administrators. The FHWA approving official is the FHWA Division Engineer. He will secure the concurrence of the regional representative of UMTA. In addition, in areas under 200,000 where the designation of urban boundaries has significant transit implications, UMTA concurrence should also be sought before formal approval is given to the proposed boundary locations. Approval will be indicated by the FHWA signature on the maps in a space provided for such purpose. One copy each of the State's submission letter, and the urban area map, together with any supporting papers are to be forwarded through the Regional Office to the Washington Headquarters, ATTN: HHP-14.

This amendment to title 23, Code of Federal Regulations, is imposed under the authority of 23 U.S.C. 101(a) and 315; and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b) and 1.50(f).

In consideration of the foregoing, it is proposed to amend Chapter I of title 23 of the Code of Federal Regulations by adding a new Part 470 Subpart B, as set forth below.

Inquiries, comments, views and arguments on these proposed regulations may be submitted to the Federal Highway Administration, Department of Transportation, Room 4226, Docket No. 74-14, 400 7th Street, SW., Washington, D.C. 20590. All written communications received on or before November 15, 1974, will be considered before final action is taken on this proposal. Copies of all written communications received will be available for examination during normal business hours at the foregoing address.

Issue date: October 3, 1974.

FRANK C. HERRINGER,
Urban Mass Transportation Administrator.

L. P. LAMM,
Acting Executive Director, Federal Highway Administrator.

Subpart B—Urban Area Boundaries

Sec.
470.200 Purpose.
470.202 Definitions.
470.204 Fixing of boundaries.
470.206 Submission and approval of boundary location.

AUTHORITY: 23 U.S.C. 101(a) and 315; 49 CFR 1.48(b) and 1.50(f).

Subpart B—Urban Area Boundaries

§ 470.200 Purpose.

The purpose of this subpart is to implement those portions of 23 U.S.C. 101(a) which prescribe the establishment, submission, and approval of urban area boundaries.

§ 470.202 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

(b) As used herein—

"Responsible local officials" means—

(1) In urban areas with a population of under 50,000, principal elected officials of general purpose local governments, or

(2) In urbanized areas, principal elected officials of general purpose local governments (and until January 2, 1975, the Commissioner of the District of Columbia) acting through the Metropolitan Planning Organization designated by the Governor.

"Urban area" means either—

(1) An urban place having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area; or

(2) An urbanized area as designated by the U.S. Bureau of the Census or in

rine case of an urbanized area encompassing more than one State, that part of the urbanized area in each State.

§ 470.204 Fixing of boundaries.

(a) Urban area boundaries shall be fixed by responsible State and local officials in cooperation with each other, and in consultation with local public transit operators where appropriate.

(b) The boundaries fixed shall encompass:

(1) For an urban area having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area, as a minimum, the entire urban place as designated by the U.S. Bureau of the Census. Adjacent areas agreed upon by responsible State and local officials may also be included within the boundaries.

(2) For an urbanized area, as a minimum, the entire urbanized area within a State as designated by the U.S. Bureau of the Census. Adjacent areas agreed upon by responsible State and local officials may also be included within the boundaries.

§ 470.206 Submission and approval of boundary locations.

(a) The State highway department shall submit the following to the Federal Highway Administrator for review and approval of boundaries:

(1) A map delineating the selected boundaries of the urban area. The map shall be of a scale sufficient to show all prominent highways and streets, all fixed transit right-of-way facilities, major bus routes, corporate limits, and township lines; the map shall also provide a space for the approving official's signature;

(2) Documentation of formal approval of the boundaries by State and responsible local officials; and

(3) Documentation of consultation with local public transit operators where such consultation was deemed appropriate.

(b) For urban areas over 200,000, approvals will be made by the Federal Highway and Urban Mass Transportation Administrators. For all other urban areas, approvals will be made by the Federal Highway Administrator, and in consultation with the Urban Mass Transportation Administrator where the designation of boundaries has significant transit implications.

(c) Approval by both FHWA and UMTA for areas of 200,000 or more and by FHWA for areas of fewer than 200,000 will be indicated by signature of an approving FHWA official on the maps in the space provided.

[FR Doc.74-23433 Filed 10-8-74;8:45 am]

Figure III-1
(Page 2 of 2)

CHAPTER IV
APPORTIONMENT FORMULA

1. Introduction. Section 5(b) of the UMT Act prescribes a basic formula for apportioning Section 5 funds among urbanized areas. Procedures and basic policy governing the apportionment of funds are detailed as part of each Federal Register publication of new apportionments. The most recent such publication is dated October 2, 1977. Each year's apportionment of new Section 5 funds will remain a Headquarters responsibility. However, each UMTA Regional Office will be responsible for maintaining up to date information regarding the status of Section 5 utilization in each urbanized area under its jurisdiction.

   At this time, the following chapter contains only extracts from recent memoranda which detail accounting procedures for administratively committing and decommitting formula funds. Other basic accounting procedures for regional offices are prescribed in UMTA C 2520.1 and UMTA C 2720.1.

2. Administrative Commitment of Funds. For areas over 200,000 population, UMTA employs a "First In-First Out" (FIFO) system that automatically makes administrative commitments for new Section 5 grants against the oldest apportioned funds which remain available to the grantee's urbanized area. For example, if an area was apportioned $100 in FY 1975 and used only $60 during that year, $40 remaining from the FY 1975 apportionment would be carried over and would remain available during FY 1976. A grant approved during FY 1976 for $80 would be administratively committed as follows: $40 against the remaining formula funds from the FY 1975 apportionment and $40 against the new apportionment of FY 1976 funds. Based upon this system, FY 1975 funds apportioned to the area would lapse only if the cumulative administrative commitments through FY 1977 totaled less than the FY 1975 apportionment. In this manner, the potential lapsing of funds is protected by the FIFO process.

   For areas under 200,000 population, the same FIFO system is employed, except that administrative commitments are made against the statewide apportionment, rather than against each area's formula share of available funding.

   For example, assume the Virginia Governor's FY 1975 apportionment was $100 and that the formula shares for Kingsport, Petersburg, Lynchburg and Roanoke are 5%, 30%, 20%, and 45%, respectively. Through FY 1977, no Section 5 grants were approved for either Petersburg or Kingsport; however, grants totaling more than $100 were approved for Lynchburg and Roanoke. Under the FIFO system described

above, each grant to Lynchburg and Roanoke would have been committed against the earliest apportioned funds remaining available to the Governor's statewide apportionment. Thus the full FY 1975 apportionment of $100 would have been committed before the end of FY 1977, even though two of the State's four urbanized areas under 200,000 received no grants at all. As such, no funds would lapse at the end of FY 1977.

As an alternative to the FIFO system, it might have been required that each grant to an area under 200,000 population be committed only against its own share of currently available funding. In the example above, $35 in FY 1975 apportioned funds (representing the respective 5% and 30% shares for Kingsport and Petersburg) would automatically lapse at the end of FY 1977.

The procedure described above is most important with regard to the lapsing of funds. Section 5(c)(2) of the Act provides that apportioned funds remain available for two full fiscal years after the year in which they are apportioned. Thus funds apportioned in FY 1975 which have not been administratively committed on or before September 30, 1977, will cease to be available.

There are two basic reasons why the above alternative has not been and should not be adopted:

a. It is inconsistent with UCC's ruling that the Governor can use discretion in suballocating any given year's apportionment among areas under 200,000 population.

b. It maximizes the potential for funds to lapse. The current FIFO policy shelters funds during the early years of Section 5. In implementing Section 5 it became apparent that many small urbanized areas were either not served by transit or were only just beginning to initiate the necessary transit planning studies. The FIFO procedure prevents the first year's apportionments for these areas from lapsing so that adequate funding will be available when they are ready to apply. (Presumably, the first year's applications from such areas will include capital as well as operating assistance. A good example is Fayetteville, N.C.)

3. Administrative Commitments to Multistate Areas. The following provides basic policy regarding the apportionment and administrative commitment of funds for multistate urbanized areas under Section 5. There are 34 bistate and

three tristate areas, of which 22 have a population over 200,000.

a. Areas Over 200,000. For areas over 200,000 population, a controlling principle is that formula funds are apportioned to the urbanized area as a whole, not to either State's portion. Although UMTA does publish the amounts attributable to each State portion for information purposes, nothing in the statute requires that such attributions be followed in the local allocation of Section 5 funds.

In practice, most bistate areas have agreed locally to treat each State's portion as a separate apportionment. Thus, for example, funds attributable to the respective Pennsylvania and New Jersey portions of the Philadelphia area are reserved, by local agreement, for programming to designated recipients in each separate State's portion. However, in theory, there is nothing to prevent funds attributable to either State's portion from being spent in the other.

With regard to the reservation of funds in bistate areas over 200,000 population, paragraph 2 outlines UMTA's basic "First In-First Out" (FIFO) procedure which automatically reserves administrative commitments for new Section 5 grants against the oldest apportioned funds available to a grantee's urbanized area. In bistate areas over 200,000 population, the FIFO procedure is also employed, regardless of the State portion to which a grant is made. This policy reflects the basic principle that funds are apportioned to urbanized areas as a whole and that reservations should be treated in a consistent manner.

By way of illustration, let us assume that the attribution of formula funds between States A and B in a hypothetical area is 80% and 20%, respectively. Because funds are apportioned to the area as a whole, the MPO could theoretically program all of the funds for a recipient in State A, or the funds could be allocated 50-50, 60-40, etc. The administrative commitment of funds would also be performed on an areawide basis, using the FIFO procedure described above. Thus if no grants were made to State B's portion, but if the cumulative amount of grants to State A's portion exceeded the FY 1975 areawide apportionment, no funds would lapse at the end of FY 1977. This would be true even if there was local agreement that the recipient in State A could not apply

for more than his State's "share" of available funds. (Eventually, of course, in FY 1981 or 82, B's accumulated funds would lapse unless they were programmed for projects in A's portion.)

This policy is compounded in bistate areas which are not covered by a single MPO (e.g., Chicago, Toledo, South Bend, etc.). Clearly, these instances of multi-MPO's in a single urbanized area violate existing requirements for areawide planning. However, such instances are realities with which Section 5 policy must be reconciled and which are properly remedied through mechanisms other than Section 5.

In bistate areas with two MPOs, it becomes more difficult to support the principle of areawide Section 5 apportionments, since each MPO lays claim to its State's "share" for programming purposes. Given the realities of such situations, it has been our policy to recognize such shares in the review of TIP/AEs; for example, we would require concurrence by the Indiana MPO before allowing the Illinois MPO to program for Illinois recipients all funds apportioned to the Chicago urbanized area. (Elsewhere, of course, we expect MPO's to act authoritatively in the programming of funds apportioned on an areawide basis.)

However, the latter policy does not extend to the FIFO procedure for making administrative commitments in bistate areas. The FIFO procedure is used in all cases, whether there is one MPO or two. Thus, even if no grants were made to the Indiana portion of Chicago, the lapsing of FY 1975 apportioned funds attributable to the Indiana portion would be prevented by the cumulative administrative commitments which have occurred in the Illinois portion.

This policy does create one potential problem in bistate urbanized areas due to the scheduling of applications from each State's portion. Assume again the hypothetical area in which the portions attributable to States A and B are 80% and 20%, respectively. The FY 1978 apportionment to the area is $100, of which A and B are programmed to receive their respective shares (i.e., $80 for A and $20 for B). Assume also that A has already fully utilized its FY 1977 allocation, but that B's application for its $10 share of the FY 1977 apportionment is still pending.

On July 1, 1977, A begins a new project year and does not want to wait until October to begin drawing down

its $80 grant. Instead, A wants an immediate grant approval against the $10 which remains available to the urbanized area from prior year apportionments. This would allow A to receive $10 of its $80 grant now, and to receive the remaining $70 after the new apportionment on October 1. B, of course, would not "lose" any funds, since there would still be $30 available (i.e., $10 for B's FY 1977 project and $20 for its FY 1978 project). However, B would be forced to wait until after October 1 before either grant could be approved, since A would have exhausted all remaining funds available to the urbanized area.

This situation has already occurred in New York and could easily be repeated in other large, bistate areas where cash flow is critical (e.g., Chicago, Philadelphia, Cincinnati, etc.). Such situations should not alter our current FIFO procedures for bistate areas, although they very clearly require close management and oversight. Where such situations do occur, consultation with the affected State portions' officials should be initiated to ensure there is understanding and agreement before funds are reserved.

b. Areas Under 200,000. Section 5 funds for areas under 200,000 population are apportioned to and allocated by the Governor of each State. The Chief Counsel has determined that Governors may use discretion in allocating each year's apportionment, provided that over six years, each area under 200,000 is allocated the amount it would otherwise receive by the prescribed formula. Therefore, bistate areas under 200,000 do not receive a direct, areawide apportionment; rather, the funds available to such areas represent the sum of the Governors' allocations to each State's portion.

As with areas over 200,000 population, funds from one State's portion of a bistate urbanized area can be used in the other State's portion. This, of course, is a matter of local discretion exercised through the programming process.

However, unlike large areas, administrative commitments for areas under 200,000 population are made against the Governor's statewide apportionment on a FIFO basis. As such, the lapsing of FY 1975 funds depends not upon the utilization by individual areas, but upon the cumulative utilization by all areas within the State. The six-year apportionment to bistate areas remains guaranteed by the requirement that each Governor allocate to his or her respective State's portion the

exact amount it would receive over six years by the prescribed formula.

For example, Steubenville-Weirton is a bistate urbanized area under 200,000 population with portions in Ohio and West Virginia. The funds available for programming by the local MPO each year depends upon the amounts allocated by each Governor for his respective State's portion, although the MPO does know what amount can be expected in total over six years. In this particular case, only funds attributable to the Ohio portion have been used; no grants have been made for the West Virginia portion. However, no funds for this area will lapse at the end of FY 1977 because the cumulative administrative commitments for areas under 200,000 in both states exceed the FY 1975 Governors' apportionments.

4. Decommitment of Funds. The following provides basic policy regarding the deobligation of Section 5 funds and, in particular, funds whose two-year availability period has lapsed. The policy outlined in this chapter is intended to minimize the lapsing of funds and to maintain the availability of deobligated funds for reprogramming.

   a. Background. Section 5(c)(2) of the Act provides that formula funds remain available for two full fiscal years following the year in which they are apportioned. As such, FY 1975 funds not administratively committed by October 1, 1977, will cease to be available (i.e., "lapse").

   A continuing question under Section 5 involves the disposition of administratively committed funds which are deobligated (or "un-committed") after the two-year availability period for the funds has expired. Because operating assistance project budgets are typically approved on the basis of estimates, grantees frequently discover that the amount which has been administratively committed for a given project exceeds his actual eligibility once final financial data become available. Ordinarily, in such situations, the excess of committed funds would be deobligated at the point of final audit and project closeout; they would then become available for reprogramming for another project. This process is compounded, however, in cases where the deobligation occurs after the two-year availability period has expired.

   b. Example. An operator utilized the full amount of his

area's FY 1975 apportionment of $100 for a grant based on estimated revenues and expenses. As the project year proceeded and actual figures became available, the grantee was able to draw down only $90 of the grant, leaving $10 in administratively committed, but undisbursed, funds in the project budget.

If the final audit and closeout of the grant was completed prior to October 1, 1977, the deobligated $10 in FY 1975 funds would presumably become available for reprogramming. Assume, however, that final audit and closeout did not occur until after October 1, 1977 (on which date FY 1975 funds not administratively committed cease to be available). What happens to the $10 in deobligated FY 1975 funds?

c. Policy. As discussed in several previous paragraph, Section 5 funds are administratively committed from apportionments to an urbanized area on a "First In-First Out (FIFO) basis. That is, a new Section 5 grant is always administratively committed against the earliest apportioned funds available to the area. Conversely, deobligations (or "un-commitments") of funds are made on a "Last In-First Out" (LIFO) basis against the most recent apportioned funds administratively committed for grants to the area.

Deobligation of funds originally committed from an apportionment whose availability period has expired will therefore be made, for accounting purposes, against any more recently apportioned funds which have been committed subsequent to the original grant, subject to the following policy. As such, the deobligated amount becomes available for reprogramming, subject to the applicable lapsing date for the more recent funds. If no funds from a more recent apportionment have been administratively committed, then the deobligated funds would immediately and automatically lapse (i.e., not be restored for reprogramming).

A key principle in this policy is that the administrative commitment of funds for each approved project does not immutably bind the grant to a specific year's apportioned funds. Rather, commitments and deobligations can both be administered on a cumulative basis.

The following illustrate how this policy would apply in the example cited above:

(1) Assume that subsequent to the original grant (Project A), but prior to October 1, 1977, a second grant for $150 (Project B) was administratively committed against the area's FY 1976 formula apportionment. As such, cumulative administrative commitments for the area at the end of FY 1977 total $250, of which $10 is now to be deobligated. Using the LIFO procedure, $10 would be deobligated from the administrative commitment of FY 1976 funds. In effect, UMTA's records would be amended to reflect the commitment of $90 in FY 1975 funds for Project A and a combination of $10 in FY 1975 funds plus $140 in FY 1976 funds for Project B; $10 in FY 1976 funds would be available for reprogramming and administrative commitment through September 30, 1978, by virtue of the deobligation action.

(2) Assume that prior to October 1, 1977, no other grants were administratively committed for the urbanized area. In this instance, the $10 deobligation would necessarily be made against FY 1975 funds and, therefore, would immediately and automatically lapse.

The effective date of a decommitment shall be determined as follows for the purposes of determining whether Section 5 funds lapse. The purpose of this policy is to ensure grantees do not have an incentive to delay the closeout of one project until another is approved for the urbanized area. The actual decommitment date shall be the effective decommitment date if the decommitment was made within six months after the close of the local fiscal year for which the funds were provided or within six months after the date on which the grant was approved. Otherwise, the effective date of the decommitment shall be a date six months subsequent to the close of the local fiscal year for which funds are provided or six months subsequent to the date on which the grant was approved, whichever is later.

5. Summary

a. Areas Over 200,000 Population

(1) Apportionment: Funds are apportioned directly to the urbanized areas as a whole, and suballocated between State portions (or among designated

recipients) at local discretion. The attribution of funds to State portions is published by UMTA for information only and does not constitute an entitlement, although, in practice, most MPO's do suballocate according to the published attribution.

(2) Administrative Commitment: Funds are administratively committed for new grants on a "First In-First Out" (FIFO) basis against total funds available to the area as a whole, regardless of the State portion which receives funds.

(3) Decommitments: Funds are decommitted on a "Last In-First Out" (LIFO) basis against cumulative commitments to the area as a whole, regardless of the State portion to which the decommitment is attributable.

(4) Lapsing: The initial lapsing of funds is prevented if cumulative administrative commitments to the area as a whole through FY 1977 exceed the FY 1975 apportionment to the area as a whole. Eventually, if funds attributable to one State's portion are not used (or are not programmed for use by the other State's portion), the funds will lapse.

(5) Who Controls: The MPO is the final authority on how funds apportioned to the urbanized area should be suballocated among local recipients and/or individual State portions. Such allocations are described in the TIP/AE, subject, of course, to comment by the Governors. In a few key areas, each State's portion has a separate MPO (e.g., Chicago, Toledo, etc.). In general, it may be necessary to consult both before permitting one to program funds attributable to the other's State portion.

b. Areas Under 200,000 Population

(1) Apportionment: Funds are apportioned to the Governor of each State and suballocated among urbanized areas under 200,000 within the State at his or her discretion. However, it is required that each such area (and that each State portion of bistate areas) receive its formula share over six years. The amount available to bistate areas is the sum of the Governors' respective allocations in any year.

(2) Administrative Commitment: Funds are administratively committed for new grants on a "First In-First Out" (FIFO) basis against total funds available to the Governor(s). Theoretically, the funds are also committed against each portion's six year share of Section 5 formula funding.

(3) Decommitments: Funds are decommitted on a "Last In-First Out" (LIFO) basis against cumulative commitments to the State (and, theoretically, against the area's six year share). In such instances it may be necessary to provide an attribution of decommitments between State portions.

(4) Lapsing: The initial lapsing of funds is prevented if cumulative administrative commitments for areas under 200,000 in a State exceed the Governor's FY 1975 apportionment. Eventually, however, lapsings will count against the individual areas' six-year entitlement.

(5) Who Controls: The MPO is the final authority on how funds apportioned to the urbanized areas should be suballocated among local recipients and/or individual State portions, subject to Governors' comments on TIP/AE's. However, the funds available to an MPO for programming in any given year are subject to allocation by the Governor(s).

CHAPTER V
PROGRAMMING OF PROJECTS

To become eligible for approval, each Section 5 operating assistance project must be included in the current approved Annual Element of the Transportation Improvement Program (TIP/AE) for the applicant's urbanized area. Because both internal and external procedures for TIP/AE preparation and review are detailed elsewhere, no further guidance on the subject is provided at this time. Procedures for reviewing the programming of Section 5 operating assistance projects in TIP/AEs are provided in UMTA C 8000.1.

CHAPTER VI
GENERAL PROJECT REQUIREMENTS

This chapter provides policy and procedures governing the individual items which comprise a Section 5 operating assistance application, particularly with regard to the sufficiency criteria for each exhibit. However, because all basic information is already detailed in UMTA C 9050.1, no further guidance regarding general project requirements is provided at this time. (NOTE: This section does not include submission requirements regarding compliance with Title VI of the Civil Rights Act of 1964. Basic requirements for this material are provided in UMTA C 1160.1 and supersede the corresponding section in UMTA C 9050.1.)

CHAPTER VII
OPERATING ASSISTANCE PROJECT BUDGETS

1. Introduction. Section 5 operating assistance projects are described by a budget which indicates total operating expenses, ineligible expenses included therein, eligible expenses, revenues applied, net project cost, local share, and UMTA funds. Detailed procedures for preparing project budgets are provided in UMTA C 9050.1, pages III-18 through III-23. These procedures cover basic submission requirements and policy governing the preparation of financial data. In addition, Appendix A of UMTA C 9050.1 details the proper treatment of various revenue and expense items.

2. Budget Questions and Answers. At this time, therefore, the guidance provided by this chapter in regard to project budgets is limited to a series of questions and answers on various specific issues concerning the eligibility of revenues and expenses. Many of the following items also apply to the calculation of "Maintenance of Effort" (MOE) which is discussed in Chapter 8.

   Q. Can an operator choose not to apply all available State and local funds in order to maximize his eligibility for Section 5 assistance? For example, an operator's net project cost is $100, his required MOE is $40 for the project year, and he has $60 in State and local funds available. Can the operator choose to apply only $50 of the State and local funds to cover eligible expenses, therefore becoming eligible for $50 from UMTA, or must he apply the full amount of available State and local funds ($60), therefore becoming eligible for only $40 from UMTA. (MOE is not a problem in either computation.)

   A. The operator is not compelled by UMTA to apply all available funds to cover eligible operating expenses. However, he must indicate the amount and source of all funds which are used for this purpose; any funds which are potentially available to an operator, but not applied against eligible expenses, need not appear in the project budget. Thus, in the example cited, the operator can apply only $50 in State and local funds and receive $50 from UMTA. See UMTA C 9050.1, page III-26.

   Q. Are contributions to a self-insurance escrow account eligible expenses?

A. In general, yes, although the eligibility of contributions to a self-insurance escrow account is subject to the following conditions:

1. The amounts represented as expenses must reflect actual cash deposits to the account.
2. Deposits remaining at the end of a local fiscal year must be carried over into the following year.
3. The amounts deposited must be "reasonable."
4. Interest earned on such accounts must be used to offset eligible transit operating expenses.
5. The fund must be used for the stated purpose.
6. Losses charged to the escrow account are not eligible expenses.

Q. If an operating assistance project aggregates the revenues and expenses of several transit operators, is it necessary for the UMTA funds to be distributed equally among each operator?

A. No. However, UMTA funds may be used only to cover eligible transit operating expenses of the operators included under the project.

Q. Is it possible for an entity to accrue eligible transit operating expenses even if it does not actually operate any vehicles?

A. Yes. Transit operations are defined under the Act as transportation "by lease, contract, or otherwise ...." An entity may accrue operating expenses under a contract with another operator to provide service. In such a case, the project is defined by the single expense of the contract for service.

Similarly, an entity may perform certain direct management functions on behalf of another entity which actually operates transit service. For example, a regional authority may provide scheduling, marketing, accounting, or other managerial services on behalf of other entities who perform the operation and maintenance of vehicles. In such cases, the authority may claim its mass transportation functions as eligible expenses for Section 5 assistance. Alternatively, its functions may be represented as contributed services by the beneficiaries in their applications for assistance.

Q. Are contributions to a capital reserve fund eligible expenses?

A. No.

Q. Are payments for contract services subject to MOE and eligible as local share?

A. "Contract service" usually describes an arrangement between some body and the transit operator to provide extra or special service for the benefit of that body and/or for the contracting body to assume the cost of fares for a certain group. It depends upon whether the source is a public or private entity and whether the service meets the statutory definition of mass transportation if contract payments are subject to MOE or eligible as local share.

For example, a shopping center may make payments to a transit operator as "route guarantees" to ensure a minimum revenue on lines serving the shopping center. Or a factory may contract with the transit operator to provide special service for employees. Such contractual arrangements may or may not also include the provision for special, reduced, or free fares for individuals using the service. Another type of "special route guarantee" may be one in which a department store, as part of its promotional efforts, "buys" the farebox of a transit system for a day (i.e., passengers that day ride for free and the store is billed for the cost of their fares).

As long as the service involved in any of the examples above meets the statutory definition of mass transportation, the payments from private entities as "special route guarantees" are not subject to MOE but may be included as local share. If, for example, the factory which contracts with the transit operator insists that the service be reserved exclusively for factory employees and not available to the general public, the payments would not be eligible as local share or MOE since the service would not constitute mass transportation. Otherwise, however, contract payments for eligible mass transportation services provided by private entities are eligible for local share and exempt from MOE. See revenue category 402.03 in UMTA C 9050.1, page B-3.

Where the contractor for service is a public entity, the amount of such payments would be subject to MOE and eligible as local share, since the payments would constitute a source of State or local government funds.

Q. Is the Federal share of operating assistance projects always 50%?

A. Not necessarily. Section 5 provides a Federal share of "up to 50%" of eligible operating expenses; in fact, the Federal share of operating assistance projects is usually less. Because Section 5 funds can only be used to cover eligible expenses, the maximum Federal share cannot exceed the amount of such expenses remaining after all non-Federal funds have been applied. Where these non-Federal funds exceed 50% of total eligible operating expenses, the Federal share will necessarily be less than 50%. Three common reasons for the Federal share being less than 50% are outlined below:

1. Some revenues applied against eligible operating expenses (e.g., farebox revenues) are not eligible for local share, yet UMTA funds must be matched dollar for dollar. Therefore, although the UMTA and local shares may be equal, UMTA funds will usually fall substantially below 50% of total eligible expenses.

2. MOE may require a significantly higher local share than the minimum required to match UMTA funds on a 50-50 basis.

3. The amount of Section 5 funds available may be less than 50% of expenses due to the formula apportionment or the local programming of projects.

Q. How should "miscellaneous" revenues be treated?

A. Transit operators typically aggregate nominal amounts from odd categories as "miscellaneous" revenues (e.g., value of unclaimed articles found on buses, etc.). Unless the amount represented as miscellaneous is critical to the applicant's meeting MOE or local share requirements or unless the amount is excessive, UMTA does not require applicants to itemize miscellaneous revenues. Such revenues should not be treated as subject to MOE, but may be included as local share, provided that sufficient local share from other sources is available to match the UMTA grant.

Q. Is it possible for the "Net Expenses Before Applying UMTA Funds" to exceed the amount of UMTA funds?

A. Ultimately, no. This would mean that the sum of maximum eligible UMTA funds and the local share is less than the net project cost. Occasionally, an operator will not know all of his local share sources at the time of application. UMTA can approve a project with excess "net expenses," provided there is proper

assurance and a reasonable basis to expect that all expenses will be met. To the extent that meeting such expenses will significantly affect the grantee's Project Year LOE and budget information, UMTA should be notified as local events develop. The following are typical methods for covering excess net expenses:

1. Amended programming of formula funds to increase the UMTA share.
2. Increased local share (with or without increased UMTA funds).
3. Increased passenger revenue.
4. Reduced expenses.

Q. Are contributions to an employee pension plan eligible expenses?

A. Yes, but only to the extent they are actually paid. Some operators show a regular accrual of pension payment obligations considerably in excess of the actual amount contributed to the pension plan. Only the amount actually paid is eligible. (This is the only expense item which UMTA requires to be presented on a cash basis; other expenses must be presented on the accrual basis.)

Q. Are parking fees collected at a park-and-ride lot eligible for local share or MOE?

A. No. Parking fees from a park-and-ride lot should be treated as passenger farebox revenue. These revenues are also not eligible for local share or MOE.

Q. Is the cost of providing special service to sporting events, conventions, State fairs, or other public events an eligible expense? How are revenues from such operations treated?

A. "Special, non-contract services" as described above may be eligible expenses if they otherwise meet the statutory definition of mass transportation. Typically, the revenue derived from such services would not be subject to MOE and would be represented as a source of farebox revenue. UMTA will review such special services on a case-by-case basis to determine their eligibility as mass transportation.

Q. Does UMTA allow Section 5 applicants to present revenue and expense data on a cash basis?

A. No. The accrual basis is required for reporting to UMTA.

Q. If a designated recipient and the transit operator on whose behalf the recipient applies for Section 5 assistance have different fiscal years, which is used to describe the project?

A. In general, the transit operator's fiscal year should be used, since this will usually determine the basis on which the operator's "level of effort" (LOE) is calculated. In any case, the project year should conform with the reporting period for compliance with Section 15. In rare cases, a designated recipient may insist upon utilizing a different fiscal year and be able to support such projects with the necessary financial and audit information. In such cases, UMTA does not prohibit the different fiscal year from being used, although UMTA will consider each such situation on a case-by-case basis. The crucial point is that audited financial statements are generated for the particular year selected.

Q. Does UMTA require that farebox revenues be used to offset eligible expenses? Can farebox revenues ever be used to pay non-operating expenses (e.g., capital costs)?

A. Appendix C of UMTA C 9050.1 prescribes the sequence in which various alternative revenue sources must be applied to eligible and other than eligible expenses. As long as the provisions of Appendix C are followed, farebox revenue can be applied to other than eligible expenses. Also, grantees should be informed that farebox revenues are not eligible for the local share to match UMTA capital grants.

Q. Are State and local contributions for elderly and handicapped services eligible for MOE or local share?

A. Services provided exclusively for the elderly and handicapped which otherwise meet the statutory definition of mass transportation are eligible for UMTA assistance. As such, State and local government funds applied to cover the eligible operating expenses of such services are eligible for local share and subject to MOE. Similarly, State and local government funds provided to reimburse a transit operator for the difference between full fares and special reduced fares charged to elderly or handicapped passengers are both eligible for local share and subject to MOE.

Q. What effect does a strike have on Project Year eligible expenses? On MOE?

A. Eligible expenses are specifically limited to those directly incurred in the operation or management of transit service. Where such service is curtailed during a strike, eligible operating expenses will necessarily be reduced significantly. Expenses attributable to the strike itself are not eligible. However, it is expected that some expenses (e.g., management salaries, overhead costs, etc.) will continue to be incurred during a strike. (NOTE: Although a strike may result in a significant reduction in eligible Project Year expenses, the local share of such expenses must remain sufficient to meet MOE, even if this results in raising local share above 50% of the net project cost.)

Q. What are cross-subsidies and how are they subject to MOE?

A. Cross-subsidies represent the application of funds available as an undistributed cash surplus derived from another (nontransportation) sector of an entity's operation to cover transit operating expenses. Where the transit operator is privately owned, cross-subsidies involving undistributed cash surpluses from another sector of operations are not subject to MOE, but are eligible as local share. For example, a privately owned railroad uses an undistributed cash surplus derived as net freight carrying revenue to cross-subsidize passenger commuter service. Or, a privately owned utility company uses an undistributed cash surplus derived as the net revenue from providing gas and electric service to cross-subsidize transit expenses. As provided in Section 5(e), undistributed cash surpluses are eligible as local share; however, since the company is privately owned, the cross-subsidy does not represent a source of State or local government funds and, therefore, is not subject to MOE.

Where the transit operator is publicly owned, cross-subsidies are subject to MOE and eligible as local share. For example, a public authority is responsible for operating toll bridges and transit services. An undistributed cash surplus derived as net bridge toll revenue is used to cross-subsidize the transit deficit. The funds are eligible as local share and, since the operator is a public entity, the cross-subsidy also constitutes a State or local government source which, therefore, is subject to MOE.

See revenue category 440 in UMTA C 9050.1, pages B-15 through B-16. Please note that the initial publication of UMTA C 9050.1 contains a typographical error in the description of revenue category 440.02 concerning cross-subsidies within public entities using net bridge or tunnel toll revenue. Such revenues are subject to MOE, consistent with the policy expressed above and in the general discussion under revenue category 440.99.

Q. How are demonstration projects treated under Section 5?

A. Demonstration projects are commonly defined as one-time, experimental operations of limited duration for the purpose of demonstrating the feasibility, effectiveness, or impact of special, unique services.

Federally funded demonstrations (e.g., Section 6 projects) are ineligible for inclusion under Section 5 projects. Local funds or the value of in-kind services used to match Federal demonstration grants are not subject to MOE and are not eligible as local share to match Section 5 assistance.

Demonstrations which are not federally funded may be included under Section 5 projects at the applicant's discretion. Where demonstrations are included, State and local government funds provided for the demonstration become subject to MOE and are eligible for local share. The service so included also becomes subject to the "improve or continue" requirement. Where demonstrations are not included, the State and local government funds must be excluded from MOE and local share.

Q. Is profit an eligible expense?

A. A reasonable profit is considered an eligible transit operating expense for private operators only. Designated recipients who apply for Section 5 operating assistance on behalf of private operators must certify to the "reasonableness" of the profit claimed. UMTA also reserves the right to make case-by-case determinations of reasonableness. Profit is usually calculated as a reasonable return on investment; however, profit calculated as a percentage of operating revenues is also permitted. See UMTA C 9050.1, page A-4.

Q. What is the starting date for Section 5? How are revenues and expenses accrued before this date treated in the project budget and LOE schedules?

A. Only transit operating expenses incurred on an accrual basis on or after November 26, 1974, are eligible for Section 5 assistance. An otherwise eligible expense incurred prior to that date is ineligible.

Similarly, only those funds used to cover expenses accrued on or after November 26, 1974, are eligible as local share.

MOE, however, is still calculated on the basis of the full "year for which assistance is sought," even if only a portion of such year is eligible. Thus if an operator's local fiscal year is July-June, only about seven months of his FY 1975 would be eligible for UMTA assistance because of the November 26 cutoff. However, his MOE would still be calculated on the basis of applicable funds expended during the entire 12 months of FY 1975 versus the average of the two preceding local fiscal years.

Q. Is the purchase of shop tools and other minor equipment an eligible expense?

A. Most items which are eligible as capital costs are automatically ineligible as operating expenses. However, UMTA policy is to be lenient in these matters since the Federal share of operating expenses is only 50% whereas the Federal share of capital grants is 80%. Also, tools and other minor equipment items are typically not included under capital assistance projects, although the useful life of such items is usually more than one year (the basic test for "capitalizing" a purchase). Finally, office equipment, maintenance materials, and supplies are usually includable as overhead expenses. Therefore, within reason, shop tools and other minor equipment items may be included as eligible transit operating expenses.

Q. Are purchase of service contracts between a transit operator and a local college or university subject to MOE? What if the university is a State institution?

A. Contract arrangements to provide campus service exclusively for the transportation of students (e.g., a shuttle bus between dormitories and classroom buildings) do not constitute mass transportation under the statutory definition. Therefore, payments for such service are not subject to MOE, and the expenses are not eligible for inclusion in the Section 5 project. However, the net revenues derived from providing such service may be treated as an undistributed cash surplus

and eligible for local share. ("Revenues" in this sense mean contract payments by the university, rather than any farebox revenue collected from students.)

Under another type of arrangement, a local university makes payments to the transit operator in exchange for providing additional service to the university area and/or charging university students a reduced fare. As long as the service provided is not exclusive (i.e., restricted to students only), such payments are eligible as local share, but not subject to MOE. This is the same arrangement as a special route guarantee paid by a shopping center, factory, or other employment center.

The above applies regardless of whether the contractor for such service is a public or private college. Although a State University is, in effect, a public agency, the funds it uses in contracting for transit service cannot be said to represent State government funds. More likely, such funds represent students' tuition and activity fees and other revenues of the university. Only if the contracting for transit service is clearly documented to represent a public intention for State government funds to be applied against transit operating expenses can such payments be counted toward MOE.

Q. Can Federal funds be used as local share or MOE?

A. Only State and local government funds are subject to MOE; therefore, Federal funds are never subject to MOE. Section 5 specifically excludes Federal funds as an eligible source of local share.

However, under certain circumstances, certain Federal funds may be considered "local" funds for matching purposes. These involve funds which are said to "lose their Federal identity" when applied by local governments and/or funds specifically intended by Congress to be used for the matching of other Federal grants.

For example, Section 104(c) of the Federal Revenue Sharing Act originally provided certain circumstances under which the funds could be used for matching purposes; Revenue Sharing funds expended after January 1, 1977, are unconditionally eligible for matching purposes. Other Federal funds which may be eligible for local share include Model Cities and Community Development funds. Most other Federal funds used to

cover transit operating expenses (e.g., UMTA funds, CETA, WIN, HEW funds, etc.) are ineligible for matching and must be treated as revenues not includable as local share. If there is a question, the originating grantor agency, not UMTA, should be asked to provide a written opinion regarding the eligibility of those Federal funds as local share for an UMTA project. See also UMTA C 9050.1, page A-5.

Q. Is interest income eligible for local share or subject to MOE?

A. Interest or investment income earned on working capital (e.g., interest earned on the short-term deposit of current year revenues in an interest-bearing bank account) is treated as a contraexpense to offset eligible expenses. As such, interest income earned on working capital is not subject to MOE or eligible as local share. See UMTA C 9050.1, page A-2.

Interest or investment income earned on other than working capital (e.g., interest earned on the long-term deposit of reserve funds, bond issue revenues, or prior year cash surpluses) can be used as an undistributed cash surplus that is eligible as local share. However, interest income is not subject to MOE.

Q. Are income taxes eligible expenses?

A. No.

Q. Can freight haulage revenues ever be represented as local share?

Yes. Where freight haulage revenues are accrued at no expense to the transit operator, such revenues may be considered an undistributed cash surplus which is eligible as local share. However, freight revenues must be net of any expenses incurred in providing freight haulage service.

Q. How is the profit earned on operating charter, school bus, sightseeing, or other nontransit service to be treated?

A. Revenue derived from nontransit service must be used to offset the costs of operating such service. However, the net revenue from nontransit operations (i.e., profit) represents an undistributed cash surplus which can be used as local share to match Section 5 operating

assistance. Such funds, however, are not subject to MOE. See UMTA C 9050.1, page A-7.

Q. Is the cost of developing an application for Section 5 assistance an eligible operating expense?

A. Yes.

Q. Is a franchise tax considered an eligible operating expense for private companies?

A. In general, yes, although UMTA should review the nature of such taxes on a case-by-case basis. For example, a franchise tax which, in effect, constitutes a tax on income would not be eligible. However, in Ohio where private operators' franchise taxes are based on values other than income, the tax has been ruled an eligible operating expense.

Q. Are private donations or contributions eligible as local share or subject to MOE?

A. Private cash donations or contributions are eligible as local share, but are not subject to MOE (because they do not constitute State or local government funds or auxiliary transit revenues). Volunteer services are neither eligible as local share nor subject to MOE since, by definition, the voluntary nature of such contributions does not involve a cost. Services volunteered free of charge by private individuals also do not represent a "contributed service" since the latter applies only to services contributed by a public entity.

Q. A private operator uses local subsidy funds to pay funded depreciation expenses. Following public takeover, local subsidy funds are also used for this purpose. However, the funded depreciation expense is eligible only for a private operator; therefore, MOE will reflect the subject of depreciation expense during the period of private ownership, but the use of funds from the same source to pay the same expense will not count toward MOE after public takeover. Is this correct?

A. No. As a general policy, MOE may be calculated to reflect the application of State and local government funds to cover expenses which are eligible in the year for which assistance is sought. In the example cited, the operator would be permitted to exclude from the MOE calculation any subsidy funds which were applied

against depreciation expenses during the time of private ownership. Other applications of this policy will be considered on a case-by-case basis.

Q. Can the project period be other than 12 months? For example, if an operator changes his fiscal year, is there a separate application for the transition period, or can the operator submit a 15-month project period application?

A. As a general rule, operating assistance project periods must conform to the local fiscal year. However, where an operator changes his fiscal year, UMTA does permit an application to cover a period of other than 12 months.

Q. If the original statement of revenues and expenses was based on projections, is it necessary to amend the grant as actual figures become available?

A. As long as the eligible amount of UMTA funds remains the same, it is not necessary to amend the project budget each time it changes. The final project budget calculated will be made at the time of final audit and project closeout.

Q. Are advertising trade-outs eligible for local share and/or subject to MOE?

A. Yes, provided that the trade-out arrangement is recognized by the operator's accountant and is amenable to audit. The trade-out amount should also appear as an eligible operating expense.

Q. Is the donation of free advertising time to a transit operator by a radio or TV station eligible for local share and/or subject to MOE?

A. No. This type of arrangement is treated the same as the donation of volunteer services by private individuals. The policy also applies to the donation of free advertising space by print media.

Q. Can a local government charge interest on "cash advance" loans to transit operators? Can the operator represent such interest as an eligible expense?

A. Yes, subject to the following conditions:

1. The loan agreement must be properly documented and amenable to audit. In general, this precludes

charging interest on funds transferred from one city account to another and/or on funds "advanced" where no formal agreement defining terms for repayment is executed.

2. The interest rate charged must be demonstrably equivalent to (or less than) the prevailing rates charged by private lenders at the time.
3. Borrowed funds are applied against eligible transit operating expenses.
4. Only interest accrued during the project year is eligible.
5. The interest expense is for a period not in excess of one year.
6. Interest expense is not eligible on funds borrowed to meet the local share for any grant.
7. Forgiveness of indebtedness arising from such transactions is not eligible for local share and is not subject to MOE. Forgiveness of indebtedness must be treated as a contra-expense.
8. Exceptions to any of the above conditions will be considered on a case-by-case basis.

CHAPTER VIII
MAINTENANCE OF EFFORT

1. Introduction. Section 5(f) of the UMT Act requires a "maintenance of effort" (MOE) by State and local governments to assist transit operating expenses at a level not below the average contributions during the two preceding fiscal years. Detailed procedures for demonstrating MOE are provided in UMTA C 9050.1, pages III-24 through III-35. These procedures cover basic submission requirements and policy governing the preparation and certification of financial data. In addition, Appendix B of UMTA C 9050.1 details the proper treatment of various revenue items subject to MOE.

2. Maintenance of Effort Questions and Answers. At this time, therefore, the guidance provided by this circular in regard to MOE is limited to a series of questions and answers on various specific issues concerning the MOE requirement. (NOTE: The guidance provided in chapter 7 includes the proper treatment of various revenue items eligible for local share and MOE. Refer to chapter 7 for further information on specific items not covered in UMTA C 9050.1, Appendix B.)

   Q. How should MOE be calculated where the transit service has not been in existence for two preceding years?

   A. MOE must reflect the two years preceding the Project Year. Where the service has not been in existence for two years, the required MOE will necessarily be quite low. Since audited financial statements will not be available to cover the required period, a simple certification that transit service did not exist during a given period should be submitted by the applicant.

   Q. How is MOE calculated where the operator has changed his fiscal year? For example, an operator has been on a July-June fiscal year and then converts to an October-September fiscal year.

   A. The "two preceding years" requirement for calculating MOE relates to the 24 months preceding the Project Year. Where, due to a change in the local fiscal year, the preceding 24 months do not embrace two complete fiscal periods, the following methods should be used to calculate MOE. These are presented in descending order of preference.

1. Calculate required MOE on the basis of more than 24 months (e.g., by using the LOEs for the two preceding July-June years and for the transition quarter. If the operator's Project Year LOE exceeds the required MOE based upon more than two years, UMTA can automatically find the requirement to be met.

2. Reconcile financial statements or other certifications to cover the two years preceding the Project Year. Where there are audited statements, it may be possible for auditors to reopen the operator's book and compute LOEs for comparable prior year periods. It may also be possible for independent contributors of LOE revenues (i.e., State and local governments) to certify the amounts contributed during the actual 24 months preceding the Project Year. In the latter case, the applicant must certify that such independent certifications have been provided from all contributors of funds subject to MOE. (NOTE: this method should not be used if nonfarebox revenues subject to MOE cannot be documented and are of sufficient amount to be critical in the calculation.)

3. Use a pro rata basis for calculating LOE with independent certification of the reasonableness of the prorating procedure. In the example above, for instance, MOE for the year ending 9/30/77 would be calculated on the basis of (1) audited financial statements for the year ending 6/30/76; (2) actual independent certifications of LOE during the transition quarter ending 9/30/76; and 3/4 of the LOE for the year ending 6/30/75, based upon audited financial statements and a certification of the reasonableness of the prorating of LOE for that year.

Q. Is the reimbursement of State fuel taxes subject to MOE?

A. Yes, for private operators only. For public operators, the reimbursement of State fuel taxes should be treated as a contraexpense. Most other reimbursements of State or local taxes to transit operators are also not subject to MOE.

Q. Is the reimbursement of reduced fares for students, elderly, handicapped, etc. by a public entity subject to MOE?

A. Yes. State or local government funds provided to cover the difference between charging full fares and a reduced fare to any user group are subject to MOE. This applies even where the reimbursement is keyed to the actual number of transit riders. (Reimbursements by a private agency, of course, would not be subject to MOE.)

Q. How is MOE calculated where there is a change in ownership of the transit system? Where service is provided by contract with private operators, how is MOE calculated where the contractor changes from year to year?

A. MOE relates to State and local government funds expended on transit service, not to the individual operator of such service. Thus MOE is calculated on the basis of the two preceding years' levels of effort, regardless of whether the system has changed from private to public ownership during that time. Similarly, where a public entity contracts with private operators to provide transit service, MOE reflects the support of such services during the two prior years, not the support of any individual operator.

Q. Are expenditures for noneligible operating expenses subject to MOE?

A. No. Only funds from eligible sources which are applied to cover eligible transit operating expenses are subject to MOE. Thus, if State or local government funds which would otherwise be subject to MOE were used to pay ineligible depreciation or capital expenses they would not be included in calculating MOE.

Q. Can an operator's required MOE ever be zero?

A. Yes, if the operator had no income subject to MOE during the two prior local fiscal years. This is most often the case where the transit service is new or where it has been provided by a private operator who received no subsidies. Zero MOE also occurs where local subsidies have been provided from Federal Revenue Sharing funds which are not subject to MOE.

Q. Can MOE ever decrease over the previous year?

A. The required MOE must be contributed from sources that are themselves subject to MOE in future years as a yes/no condition of project eligibility. Therefore, MOE will not decrease, but, at a minimum remain the

same from year to year. Typically, however, an operator's required MOE will increase. The only instance in which MOE could conceivably decrease would be where an operator forgoes Section 5 assistance for a year and makes up the difference with revenues from a source not subject to MOE.

Q. Does MOE apply to the local fiscal year for which assistance is sought, the Federal fiscal year whose apportionment is applied for, or the year in which the application is made?

A. MOE applies to the local fiscal year for which the assistance is sought, regardless of which Federal fiscal year's apportionment is being used and regardless of the year in which application is made.

Q. Can funds from a source which is not subject to MOE be counted toward LOE? For example, if an operator's required MOE for a given period is $100,000 and he receives $90,000 from sources subject to MOE and $10,000 from other sources eligible for local share but not subject to MOE, is the requirement met?

A. No. Only funds provided from sources that are themselves subject to MOE can be counted toward the level of effort in any project year. In the example above, the operator's LOE of $90,000 does not meet the required MOE of $100,000, even though the operator's local share may be $100,000.

Q. Does MOE apply to the level contributed by each source? For example, if an operator has been receiving subsidies from three local government sources, is each obliged under MOE to continue providing subsidies in the future?

A. No. MOE applies only to the aggregate contributions from eligible sources during a given year. In the example above, if one source decided to discontinue transit subsidies, MOE could still be met if the level contributed by other sources increased.

Q. Does MOE apply to an applicant's eligibility for Section 5 capital grants? If so, what determines the "year for which assistance is sought?"

A. Yes. MOE is a condition of eligibility to receive Section 5 assistance, both capital and operating.

"The year for which assistance is sought" (i.e., the Project Year in which LOE must be at least equal to the two prior years' LOE) is determined by the applicant, although the year used must be embraced by the program year of the TIP annual element in which the project is currently programmed.

For example, if an annual element for the program year ending June 30, 1976, contains a Section 5 capital grant project and if the applicant for such project uses a fiscal year which also ends on June 30, that year (FY 1976) is considered the "year for which assistance is sought." If the operator uses a June 30 fiscal year, but the program year is on a calendar year basis, the operator may use either of his local fiscal years embraced by the program period for calculating MOE.

CHAPTER IX
ELDERLY AND HANDICAPPED OFF-PEAK FARES

1. Introduction. Section 5(m) of the UMT Act requires that "the rates charged elderly and handicapped persons during non-peak hours for transportation utilizing or involving...facilities and equipment financed with (formula grant) assistance will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise."

   Applicants for Section 5 operating assistance projects are required to detail the procedures by which the requirements of this provision will be satisfied. Application instructions regarding the off-peak half-fare requirement which outline basic policy and procedures are provided in UMTA C 9050.1, pages II-5 through II-7. See also Chapter VI and Chapter XI of this circular.

   This chapter provides UMTA policy on a variety of specific issues involving elderly and handicapped off-peak half-fares, broken down among eight specific categories. At this time, the guidance provided is intended to supplement that which is cited above in UMTA C 9050.1. Policy guidance provided in the following subsections appears in the form of specific questions and answers which expand upon the general external guidance.

2. Applicability of the Requirement

   Q. If there are several transit operators in an urbanized area, all receiving Section 5 assistance, must they each use the same off-peak half-fare procedure?

   A. No. However, UMTA strongly encourages consistency and continuity in local off-peak half-fare procedures. As such, where several operators in an area are required to implement off-peak half-fares, UMTA encourages them to use common definitions, transferable certifications, and compatible fare collection methods.

   Q. If an operator in an urbanized area does not receive Section 5 assistance, but other operators in the area do, is it nevertheless required to implement off-peak half-fares?

A. No. Section 5(m) only applies to recipients of Section 5 assistance.

Q. If a transit service is operated exclusively for the elderly and handicapped, does the off-peak half-fare requirement apply?

A. No. This is because such exclusive services have no "otherwise applicable" peak-hour fare for nonelderly and handicapped riders.

Q. If a service operates only during peak-hours (e.g., a commuter railroad), does the off-peak half-fare requirement apply?

A. No. This is because such services have no "off-peak hours" during which the reduced fare would apply.

3. Definition of Elderly and Handicapped Persons

Q. Can the definition of "elderly" or "handicapped" be restricted on the basis of residency, citizenship, income, employemnt status, or the ability to operate an automobile?

A. No. Section 5(m) is applicable to "elderly and handicapped persons." It is UMTA's policy that such categorical restrictions are not permitted under the Act.

Q. Can the eligibility of "temporary handicaps" be restricted on the basis of their duration?

A. Handicaps of less than 90-days duration may be excluded. Handicaps of more than 90-days duration must be included.

Q. Can the definition of "handicap" be limited in any way?

A. UMTA has allowed applicants to exclude some conditions which appear to meet the functional definition of "handicap" provided in Section 16 of the UMT Act. These include pregnancy, obesity, drug or alcohol addiction, and certain conditions otherwise recognized as handicaps which do not fall within the statutory definition (e.g., loss of a finger, some chronic heart or lung conditions, controlled epilepsy, etc.). Individuals may also be excluded whose handicap involves a contagious disease or poses a danger to the individual or other passengers. Other exceptions should be reviewed on a case-by-case basis.

Q. Is blindness considered a handicap under Section 5(m)?

A. Yes.

Q. Is deafness considered a handicap under Section 5(m)?

A. As a rule, no, because deafness, especially on buses, is not considered a disability which requires special planning, facilities, or design. However, deafness is recognized as a handicap in UMTA's elderly and handicapped regulation, and applicants for Section 5 assistance are encouraged to include the deaf as eligible for off-peak half-fares.

Q. Is mental illness considered a handicap under Section 5 (m)?

A. As a rule, no, because of the difficulty in establishing criteria or guidelines for defining eligibility. However, UMTA encourages applicants to provide the broadest possible coverage in defining eligible handicaps, including mental illness.

Q. Can applicants define "elderly" as persons of less than 65 years of age?

A. Yes. The law requires that all persons 65 years or older be included as elderly. However, applicants are free to include persons less than 65 as well.

4. Certification of Eligible Individuals

Q. Can operators delegate the responsibility for certifying individuals as eligible to other agencies?

A. Yes, provided that such agencies administer the certification of individuals in an acceptable manner and are reasonably accessible to the elderly and handicapped. Many operators currently make extensive use of social service agencies (both public and private) to identify and certify eligible individuals.

Q. Is it required that elderly and handicapped persons be issued ID cards?

A. No. Some operators simply instruct their drivers to accept any individual who claims to be eligible. Many operators also use existing identification (e.g., Medicare cards) for certifying eligible individuals. At the same time, UMTA does permit operators to require

that eligible individuals be issued an ID card to take advantage of the off-peak half-fare provision.

Q. Can operators require elderly and handicapped individuals to be recognized by any existing agency (e.g, require that handicapped persons be receiving Social Security or Veterans' Administration benefits)?

A. Recognition by such agencies is commonly used to certify eligible individuals. However, such recognition should not be a mandatory prerequisite for eligibility. For example, many persons with eligible temporary handicaps may not be recognized as "handicapped" by social service agencies.

Q. Are operators permitted to charge individuals for the issuance of an ID card if one is required?

A. Yes, provided that the charge is not unreasonable. Typically these charges do not exceed $2.00.

Q. Can operators require handicapped individuals to obtain a certification signed by a physician stating their eligibility under the definition of "handicapped?"

A. Yes. Some operators waive this requirement for persons wth "obvious" handicaps (e.g., missing limbs). Others waive the requirement for doctor's certification for individuals recognized as handicapped by various social service agencies.

Q. Can operators require elderly and handicapped persons to waive their rights to sue for liability claims if they ride at off-peak half-fares?

A. No.

Q. Can the operator require that elderly and handicapped persons come to a central office to register for an off-peak half-fare program?

A. UMTA strongly encourages operators to develop procedures which maximize the availability of off-peak half-fares to eligible individuals. Requiring individuals to travel to a single office which may be inconveniently located is not consistent with this policy, although it is not explicitly prohibited. UMTA reserves the right to review such local requirements on a case-by-case basis.

Q. Must ID cards issued by one operator be transferable to another?

A. No. However, UMTA encourages consistency among off-peak procedures and the maximizing of availability to eligible individuals, especially among operators within a single urbanized area. Nevertheless, each operator is permitted to require its own certification of individuals using its service.

Q. Can an operator require an elderly or handicapped person to submit to a procedure certifying their eligibility before they can receive the half-fare? For example, if an operator requires eligible individuals to have a special ID card, can the half-fare be denied to an individual who can otherwise give proof of age, etc., but does not have an ID card?

A. Yes, although UMTA does not endorse this practice.

5. Fare Collection Procedures and Calculation of Half-Fares

Q. Does the off-peak half-fare requirement apply only to the basic fare?

A. No. It also applies to transfer fees, zone charges, and similar fare surcharges.

Q. Can grantees charge less than half-fares to elderly and handicapped persons?

A. Yes. The requirement is that not more than one-half the peak-hour fare may be charged during off-peak hours. Local arrangements which go beyond this minimum requirement are encouraged.

Q. If an operator reduces fares for all riders during the off-peak, must the elderly and handicapped be charged half of the peak or off-peak fare? For example, an operator charges 40¢ to all riders during peak hours and 25¢ during the off-peak; must the elderly and handicapped be charged half of the 25¢ off-peak fare?

A. No. Section 5(m) prescribes the charging of not more than one-half the peak-hour fare. In the example above, the elderly and handicapped persons riding in the off-peak could be charged 20¢.

Q. If an operator uses various fares for different services, how is the half-fare computed?

A. The half-fare applies to the cost of a given trip on a given service during the peak versus off-peak hours. Thus, for example, an operator may have a basic fare of 30¢, but may operate certain express services which charge a premium fare of 40¢. An elderly or handicapped person using one of the latter services during the off-peak could be charged 20¢.

Q. Could an operator comply with the Section 5(m) requirement by providing off-peak half-fares for all riders?

A. Yes.

Q. Do operators have to charge a fare to elderly and handicapped persons?

A. No. Section 108 of the UMTA Act specifically states that nothing in Section 5(m) precludes an operator from providing free fares to E&H.

Q. If an operator requires E&H to purchase multiride tickets to avail themselves of off-peak half-fares, does UMTA prescribe a maximum number or cost that can be required?

A. No, provided that the number and cost are reasonable (i.e., not excessive). UMTA reserves the right to review such arrangements on a case-by-case basis to determine reasonableness. As a rule, operators do not require the purchase of more than 10 tickets at a time or a cost of more than $5.00.

Q. If an operator implements the off-peak half-fare requirement by using scrip, must it be redeemable in cash?

A. Scrip (sometimes called a "twofer") is issued to an eligible individual who pays a full fare for the initial trip. The scrip is then surrendered when the individual makes a subsequent (off-peak) trip for free. UMTA encourages that scrip be redeemable in cash, but it is not required.

Q. If the operator's basic fare is an odd number, must he round up or down in calculating one-half? For example, an operator's regular fare is 35¢. Can he charge E&H 18¢ during the off-peak? Can he round upward to the nearest nickel?

A. In such cases, the operator must round downward, preferably to the nearest nickel. In the example above, the half-fare would have to be 17¢, not 18¢ and certainly not 20¢. Obviously, UMTA encourages operators to set half-fares at convenient amounts, usually rounded down to the nearest nickel--in the case cited, 15¢ or less.

Q. If an operator provides reduced fares for various classes of riders, in addition to the elderly and handicapped, is the off-peak half-fare computed as one half of the reduced fare? For example, an operator's basic fare is 40¢. Students, however, ride all day for 20¢. Does a handicapped student therefore ride for 10¢ during the off-peak?

A. Not necessarily. Operators are not compelled to continue such discounts in computing the half-fares.

Q. If an operator uses various fare collection techniques, must the off-peak half-fare be made available under each? For example, an operator charges a 40¢ basic cash fare, sells tokens at 2 for 80¢, and sells books of tickets at 10 for $4.00. Must elderly and handicapped persons be allowed the off-peak half-fare under all three methods?

A. No, although UMTA strongly encourages operators to maximize the availability of off-peak half-fare procedures. Conceivably, in the case above, the operator could permit E&H individuals to pay the half-fare only in cash at the farebox; E&H would be charged the full cost of tickets or tokens purchased. Conversely, the operator could require that E&H individuals avail themselves of the half-fare only by purchasing bulk tickets (e.g., 10 for $2.00); E&H would be charged the full fare when paying in cash at the farebox. UMTA does not encourage these practices, but recognizes their necessity under certain circumstances (e.g., where tokens are used in turnstiles).

Q. If an operator offers discounts for multiride prepayments, must these discounts be passed along to E&H? For example, an operator's basic fare is 40¢. He sells 10-ride ticket books for $3.50 as a promotion. Assuming that he permits E&H individuals to purchase 10-ride coupons, can he charge $2.00 (i.e., one-half of 10 times the 40¢ basic fare) or must he charge $1.75 (i.e., one-half of the discounted cost for a 10-ride coupon)?

A. UMTA prefers that discounts be passed on to the elderly and handicapped. However, in the example above, the operator would be permitted to charge $2.00.

Q. If an operator reduces the regular fare, must a corresponding reduction in off-peak half-fares be implemented? For example, an operator's basic fare is 40¢; E&H persons riding in the off-peak are charged 20¢. If the operator reduces his basic fare to 30¢, must the E&H be charged 15¢ in the off-peak?

A. Yes.

Q. How is compliance with Section 5(m) affected where fares are subsidized by a State or local government?

A. Section 5(m) requires that the off-peak half-fares shall not be greater than one-half of the fare otherwise charged during peak hours.

Where a State or local government provides a subsidy for all passengers, the half-fare for E&H is computed as one-half the actual amount paid by an individual passenger in the peak hours, not one-half of the subsidized fare. For example, a regional operator has a regular posted fare of 30¢ which it increases to 40¢. Concurrent with the increased basic fare, the regional operator also increases the required off-peak half-fare for E&H from 15¢ to 20¢. One community within the operator's service area decides to subsidize the increased fare for non-E&H persons (i.e., to pay the 10¢ increase on behalf of each regular passenger). Thus non-E&H persons are required to pay only 30¢. In this case, even though one-half of the posted fare would be 20¢, E&H cannot be charged more than 15¢ during off-peak hours since 30¢ is the effective cash fare otherwise applicable to riders of the service.

Another example involves cities or states in which reduced fares for elderly and handicapped passengers may be subsidized. That is, State or local government funds are provided to the operator to make up the difference between full regular fares and the reduced fare charged to elderly and handicapped riders during nonpeak hours. Such arrangements do not affect the calculation of the half-fare amount.

Q. Must both elderly and handicapped persons be charged the same fare?

A. No, provided that neither is charged more than one-half the amount otherwise charged to non-E&H persons during peak hours. For example, at least one State provides free fares for elderly persons, but charges handicapped riders one-half fares. While UMTA does not advocate such arrangements, they are permissible.

6. Off-Peak Hours

Q. How are off-peak hours determined?

A. Peak hours are typically between the hours of 6:30-9:00 A.M. and 3:30-6:00 P.M. Off-peak hours embrace all other hours of operation, including early morning, evening, weekend, and holiday service. Individual operators are free to determine off-peak hours consistent with local travel demand and operating characteristics. However, significant deviation from the norm should be documented.

Q. Is it possible for peak hours to occur during the midday?

A. Theoretically, yes, but such situations are rare and should be documented carefully. However, at least one Florida transit operator has documented that his peak vehicle requirements and load factors occur between 9:00 A.M. and 2:00 P.M. UMTA has accepted this documentation and recognized the off-peak to occur before 9:00 A.M. and after 2:00 P.M.

7. Implementation

Q. When must an operator actually implement the off-peak half-fares?

A. The provision of off-peak half-fares must be implemented at the time an operator executes his contracts for Section 5 assistance. At the time of application, the operator is required only to describe the procedure which will be used.

Q. How long must half-fare procedures, once implemented, be kept in effect?

A. The Act does not provide clear guidance on this issue. However, UMTA assumes that recipients of Section 5 assistance will maintain a continuing relationship with UMTA under this program and that off-peak half-fare procedures will also be continued without interruption throughout the life of Section 5.

Q. How is the Section 5(m) requirement enforced?

A. Applicants for Section 5 assistance must describe the procedure for complying with this requirement as a condition of project approval. The procedure described in an application must be implemented before grant contracts for the project are executed. Failure to comply with the foregoing will preclude project approval and/or the offering of grant assistance. Because continued compliance with the Section 5(m) requirement is an explicit contractual provision, failure to maintain the required off-peak half-fare procedure may render the contract void and cause the grantee to return any UMTA assistance received. However, the latter would apply only in extreme cases. Typically, UMTA will notify grantees if a complaint alleging noncompliance is received, and grantees will be instructed to immediately effect the necessary changes before action is taken to void the contract. Usually in such situations the processing of requisitions will be suspended until the conditions of noncompliance are remedied.

Q. Can off-peak half-fare procedures be changed once they have been implemented?

A. Yes. However, UMTA encourages operators to provide continuity in their procedures, and frequent changes which impose an inconvenience to eligible individuals are strongly discouraged. Changes which enhance the availability of off-peak half-fare procedures, broaden the definition of eligible individuals or off-peak hours, reduce requirements for certifying persons, etc. are, of course, encouraged. Grantees should always notify UMTA of any changes to the off-peak half-fare procedures as described in their applications.

8. Notification.

Q. Are operators required to publicize the availability of off-peak half-fares?

A. Yes. However, UMTA does not prescribe specific methods which must be used. Consistent with the policy that procedures be developed to maximize the availability of off-peak half-fares to eligible individuals, reasonable efforts must be undertaken (and described in the Section 5 application) to notify the public of the half-fare program and any necessary procedures for certifying eligible individuals.

9. General Policy. UMTA permits local discretion in fashioning off-peak half-fare procedures within the constraints imposed by statute. UMTA does not prescribe any standard approach for individual operators to take in complying with this requirement.

   At the same time, however, UMTA does strongly encourage certain principles which constitute a general policy regarding off-peak half-fare procedures:

   a. Consistency - To the extent possible, procedures employed by different transit operators (especially operators within the same or contiguous urbanized areas) should be reasonably consistent.

   b. Continuity - To the extent possible, procedures once implementd by a transit operator should be maintained and not subject to frequent alteration, unless such changes have the effect of increasing the availability of off-peak half-fares or facilitating their use by eligible individuals.

   c. Availability - To the extent possible, localities should design procedures that will maximize the availability of off-peak half-fares to all eligible individuals.

   Given these basic principles, an ideal procedure would be one that placed few constraints on the participation of eligible individuals and which was simple and easy to use. In practice, however, transit systems have adopted various procedures, some clearly more restrictive than others. Transportation representatives are required only to determine whether the basic statutory requirement has been satisfied in reviewing individual applications; UMTA cannot require an operator to remove legally acceptable procedures which do not fully embrace the principles expressed above.

CHAPTER X
"IMPROVE OR CONTINUE" SERVICE REQUIREMENT

1. Introduction. Section 5(d)(1)(B) of the UMT Act defines an eligible Section 5 operating assistance project as "the payment of operating expenses to improve or continue ... service" (emphasis added). This language has been variously interpreted since the inception of Section 5 to more or less require a "maintenance of service" as a basic condition of project eligibility.

   This chapter reviews the basic improve or continue service requirement and outlines general policies for UMTA transportation representatives to employ in determining compliance.

2. Requirement. The basic "improve or continue" service requirement has not been clearly delineated either in the statute itself or in subsequent implementation by UMTA. The language in this section has been interpreted by some to mean that Section 5 recipients must maintain all existing services at existing levels and existing fares for as long as they continue to receive Section 5 assistance. This interpretation would make such basic service indicators as route miles, vehicle assignments, etc. the basic criteria for compliance review.

   However, there appears to be neither any legislative history nor further statutory clarification to support the latter interpretation. In addition, a strict requirement that all services extant at the time Section 5 became law would unreasonably constrain local flexibility and, in some cases, contradict the encouragement given transit operators by UMTA to improve efficiency and periodically reallocate resources to meet shifting mobility needs. Therefore, UMTA's Section 5 guidelines published on January 13, 1975, interpret the statutory requirement as follows:

   > "The operators of mass transportation services receiving Section 5 assistance shall use the assistance to improve or continue such services. However, improvement and continuation does not preclude selective reductions and reallocations of services where the changes can be shown to improve the overall mobility within the urbanized area."

   The above guidance makes clear that transit operators may, in fact, alter existing services without violating the "improve or continue" requirement. However, this guidance substitutes an equally difficult standard for determining

compliance: that "urban mobility" must be shown to improve as a result of any change to existing service.

Lacking any clear and universal measure of "urban mobility" administration of the latter guidance becomes extremely difficult. In addition, the exigencies of urban mass transportation in many areas may well necessitate the alteration of services in a manner that cannot be demonstrated to "improve" mobility--although the negative effects on mobility can reasonably be demonstrated to be negligible. For these reasons, the policy outlined below is intended to guide the application of this requirement in a practical and reasonable manner.

3. Policy. The following principles apply to the "improve or continue" requirement. In reviewing specific local situations, transportation representatives should consider these basic principles and the extent to which proposed local actions remain reasonably consistent with the overall policy expressed below:

   a. Service reductions should not be implemented on an arbitrary or indiscriminate basis. For example, a local decision to economize transit operations by increasing headways on all routes by 50% would probably violate this principle. On the other hand, a decision to adjust services consistent with ridership demand patterns and with reasonable regard for public mobility needs (especially among the transportation disadvantaged) would be significantly more in line with this basic principle. In such instances, service changes should adhere to any local procedures or requirements for undertaking such changes.

   b. To the extent possible, service reductions should be characterized with reference to increasing efficiency, productivity, and economy. Where a transit operator's proposed service adjustments raise concern regarding compliance with "improve or continue" requirements, UMTA may give strong weight to the associated effect on operating efficiency and effectiveness in its considerations, given our equally strong encouragement to operators in these areas.

   c. Service reductions should be consistent with regional transportation planning, particularly the Transportation Systems Management (TSM) and Elderly and Handicapped planning elements. Service adjustments which significantly depart from locally adopted planning efforts may raise significant concerns in terms of planning certification and TSM compliance

which overshadow the "improve or continue" requirement per se.

d. Service reductions should be characterized with reference to minimizing the impact on overall urban mobility. While the elimination or alteration of underutilized services will necessarily affect the convenience or frequency of transit, this need not restrict urban mobility in the sense that a basic urban transportation service is still being continued.

e. The increase or reduction of fares is not germane to the "improve or continue" service issue. An operator who increases fares while receiving Section 5 assistance is not, for that reason, in violation of the "improve or continue" principle.

Ultimately, UMTA's primary concern is with the continuation of mass transportation service in urbanized areas. Where local resources cannot reasonably support the maintenance of existing services, and where proposed reductions/alterations of service conform with the principles above, "improve or continue" should not preclude the granting of operating assistance. In effect, some service is preferable to none at all.

A final issue involves the time frame in which the "improve or continue" principle applies. That is, once a transit operator receives Section 5 assistance, must it continue to provide service indefinitely, throughout the life of the Section 5 program, or for a shorter period? This issue is often most salient where a locality receives operating assistance on behalf of a private operator whose continued operation is beyond the grantee's control.

UMTA does expect that localities will apply for and receive Section 5 operating assistance with the intention that service be continued for the foreseeable future. Clearly the long-range commitment to maintain transit service is also implicit in the planning process and the programming of formula funds in areawide Transportation Improvement Programs. However, as a contractual requirement, the "improve and continue" requirement shall only apply to:

- The local fiscal year for which assistance is granted, or
- The Federal or local fiscal year in which the application for assistance is approved, if different.

Thus if a locality applies during FY 1977 for a grant to cover FY 1975 operating expenses, the "improve and

continue" requirement would apply to services during FY 1977. Should a private operator assisted through such a project suspend operations at a future date, UMTA would not be in a position to recover the funds assuming that all other project requirements were met.

The preceding discussion is intended to provide a general sense of UMTA policy regarding the "improve or continue" service requirement and to provide some basic criteria to guide local decisions regarding service changes. Where compliance with the improve or continue service provision becomes an issue, UMTA must consider local circumstances on a case-by-case basis. Transportation representatives in regional offices should consult with UMTA Headquarters before issuing a final determination in such cases.

CHAPTER XI
APPLICATION REVIEW PROCEDURES

1. Prereview Procedures. This section outlines procedures for the receipt and control of new Section 5 operating assistance applications upon submission. New applications will be submitted by the designated recipient for the project directly to the respective UMTA Regional Office.

   a. Assignment of Project Number. Immediately upon the receipt of a new Section 5 operating assistance application, a unique Project Number should be assigned by the receiving Regional Office. Each Regional Office will need to assure appropriate control the assignment of project numbers. Project numbers are assigned sequentially to projects in each State with a variable coding to identify capital and operating assistance grants, as indicated below:

XX-05-0###	for Section 5 capital assistance projects.
XX-05-4###	for Section 5 operating assistance projects.
XX-05-3###	for Section 5 capital grants which augment a Section 3 project.
XX-03-5###	for Section 3 grants which augment a Section 5 capital grant.

   For example, the first operating assistance application received from a California urbanized area would have Project Number CA-05-4001. The next application received from a California area would be assigned Project Number CA-05-4002, and so forth. A Section 5 capital grant which supplements or amends Section 3 Project Number CA-03-0024 would be assigned Project Number CA-05-3024.

   Do not assign Interstate ("IT") project numbers for Section 5 operating assistance projects. If funding for a given project is attributable to two or more State portions of an urbanized area, use the State code for the State in which the designated recipient is located. This procedure will enable each Regional Office to control the assignment or project numbers for the applications it receives.

   Indicate the assigned project number on each copy of the application received.

b. MACS Setup. Following the assignment of a project number to a new application, set up the project in MACS using the CRT. MACS setup of new applications will be performed directly by Regional Offices, and it is important that this step be completed promptly to insure that the data base remains accurate and up-to-date. Detailed MACS procedures are provided in UMTA C 2720.1 MACS Reference Book.

c. Distribution of Copies. Following the assigment of a project number and MACS setup, the receiving office control point distributes copies of new applications to the Transportation Representative, Civil Rights staff, and the Department of Labor for review. Each new Section 5 operating assistance application should be submitted in one original and three copies by the designated recipient.

The original copy is retained for the Project File (see paragraph 1.d) to be reviewed by the Transportation Representative. One copy should be provided directly to the Regional Office Civil Rights staff. Two copies should be mailed directly to the Department of Labor to initiate 13(c) certification procedures (see Attachments 1 & 2).

NOTE: If the project involves a commuter railroad, DOL requires six additional copies to initiate 13(c) certification.

d. Project File Setup. The original copy of each new application submitted should be placed in a Project File and forwarded to the Transportation Representative assigned for review. The application itself and any further project-related documentation submitted by the applicant should be placed on the left-hand side of the project file. Approval documents should be placed on the right-hand side. Refer to UMTA C 1324.1 for preparation of Project File.

New applications may contain the initial submission or updates of applicant eligibility documentation or system descriptive information (see Chapter 6) which will be removed by the Transportation Representative and placed in separate files.

Indicate on the outside tab of the project file the project number, name of applicant, and name of the urbanized area. Place a blank Application Review Checklist (see paragraph 2a) in the project file, indicating the project number and date of receipt. This will be used by the transportation representative in his or her review of the application.

e. Acknowledgment to Applicant. Following the distribution of copies, mail a postcard to the applicant acknowledging receipt of the application and indicating the project number that has been assigned. The name and address of the applicant are indicated in item 4 on Standard Form 424 which should appear in the front of the application.

f. Initial Status Report to UTA. Detailed instructions for reporting of project status information by Regional Offices to UTA are provided in UMTA C 5100.1. Following the receipt and distribution of new applications, enter the appropriate information on the monthly status report for UTA.

2. Application Review. This section outlines procedures for the preaward review of operating assistance applications by transportation representatives in the regional offices.

a. Application Review Checklist. The Application Review Checklist (Attachment 3) is used to: (1) Document the acceptance of items submitted in each application; (2) Record the status of the application review as it proceeds; and (3) Certify the completion of each application review, the UMTA funds to be granted, and the terms and conditions of the project approval.

As each item in the application is reviewed and found satisfactory, the transportation representative should indicate the date in the blank opposite the appropriate item. Items which are not satisfactory as submitted or which are missing from the original submission should be handled according to the procedures outlined in paragraph 2a. The remainder of this subsection details procedures for the review and acceptance of individual items indicated on the application review checklist; submission requirements are detailed in UMTA C 9050.1 and, for each item, the appropriate page reference in this Circular is indicated below.

(1) Consistency with TIP/AE. Prior to approval, each Section 5 project must be found consistent with and pursuant to the currently approved programming of formula funds in the Annual Element of the Transportation Improvement Program (TIP/AE) for the recipient's urbanized area. The finding of consistency is made with regard to:

- o Designated recipient
- o Operator(s) to be assisted

- o Project period
- o Amount of UMTA funds

Procedures for TIP/AE review and approval are detailed in UMTA C 8000.1. The transportation representative is responsible for comparing Section 5 operating assistance applications with the approved TIP/AE for the recipient's urbanized area to determine consistency with the programming action. If the project is not consistent, it will be necessary to amend the TIP/AE; see UMTA C 8000.1 for further instructions. Under certain circumstances, conditions may be placed on the eligibility of programmed projects pending local efforts to correct planning/programming deficiencies. Transportation representatives must be aware of such circumstances or conditions in reviewing the consistency of projects with TIP/AE's.

(2) Labor Certification. Certification of labor protective arrangements pursuant to Section 13(c) by the U.S. Department of Labor (DOL) must be received prior to grant approval. Transmission of new applications to DOL occurs prior to receipt by the transportation representative.

DOL certification will be made in the form of a letter to the Regional Director specifying the terms and conditions for labor protection under each project. Upon receipt, the letter is placed in the official project file and its date noted on the application review checklist in the appropriate box. The 13(c) certification must be received before project approval can occur.

(3) Cover Letter. As indicated in UMTA C 9050.1, page I-1, the designated recipient and the applicant/grantee for a Section 5 operating assistance project may or may not be the same entity. Where the designated recipient is not the applicant/grantee, a cover letter formally transmitting the application is required from the designated recipient. See UMTA C 9050.1, page III-17.

The cover letter must formally transmit the application to UMTA and acknowledge the applicant/grantee as such. In such instances, the cover letter will be the only application document formally executed by the designated recipient.

(4) Application Forms. Each Section 5 operating assistance application must contain Standard Form 424 and Form OMB 80-RO-186, Part III properly executed by the applicant. (See UMTA C 9050.1, pages III-1 through III-13.) The transportation representative should determine that the application forms have been properly executed and that the information provided is consistent with that indicated in Exhibit A.

(5) Authorizing Resolution. UMTA requires applicants to have formal authorization from their governing body before filing the application. (See UMTA C 9050.1, pages III-14 through III-16.) The transportation representative should determine that the authorizing resolution has been properly adopted, signed, and certified.

(6) Legal Assurance. A basic opinion of counsel demonstrating the applicant's legal eligibility is included with the applicant's one-time submission of eligibility documentation and standard assurances (see Chapter 6 and paragraph 2a(12)). In addition, however, UMTA C 9050.1, page III-17, also requires that a legal opinion be submitted with each application which references the one-time submission and which certifies that there is no pending legislation or litigation which may preclude the carrying out of the project. The transportation representative should determine that this legal assurance has been properly executed by the applicant's attorney and submitted with the application. Where the legal opinion does indicate that pending action may preclude the carrying out of the project, this should be referred to the UMTA legal counsel for resolution prior to grant approval.

(7) Exhibit A: Project Budget. The project budget submitted in Exhibit A of Section 5 operating assistance applications serves as the basic project description and justification. Detailed procedures and a format for preparing Section 5 project budgets are provided in UMTA C 9050.1, pages III-18 through III-23. In addition, basic policy regarding the treatment of various revenue and expense items in the development of project budgets is detailed in Appendix A of UMTA C 9050.1. See also chapter VII of this circular.

In reviewing and accepting the project budgets submitted by operating assistance applicants, transportation representatives should determine the following:

(a) That the project period, transit operator(s), and designated recipient are properly identified and correct;

(b) That the budget has been prepared in accordance with UMTA C 9050.1 and that the itemized expenses, eliminations, revenues, and local share funds have been properly treated;

(c) That the information presented in the project budget is consistent with that indicated on the application forms and LOE schedules (see Chapter 8); and

(d) That the project budget has been properly signed by the applicant's chief financial officer.

In general, it is not the responsibility of transportation representatives to determine the accuracy or veracity of the information presented on project budgets from any independent source. The applicant's certification will typically constitute a sufficient basis to accept the information as submitted. However, it is necessary to determine that the information submitted appears reasonable, that it appears to conform with the policies prescribed in UMTA C 9050.1, and that the applicant's arithmetic is correct.

The application procedures set forth in UMTA C 9050.1 deliberately do not prescribe a specific level of detail for itemizing entries on the project budget. Itemization is encouraged, however, to help ensure that individual revenue and expense items are treated properly. Transportation representatives must use discretion in determining when additional detail is required for acceptance of project budget information. In general, however, information which otherwise appears to be properly treated need not be detailed further if the budget has been certified by the applicant.

Backup material in the form of revenue and expense statements or other certifications is not required. Formal actions committing the sources of local share are similarly not required. However, in accepting project budget submissions, transportation representatives should consider the reasonableness of information provided, recognizing that such information is necessarily based on estimates at the time of submission. Where the past performance of an individual applicant so warrants, it may be appropriate to seek further clarification of expenses, revenues, and/or local share.

Once the basic project budget submission has been accepted, enter the date and UMTA share for the project in the appropriate space on the application review checklist.

(8) Exhibit B: Maintenance of Effort. Maintenance of Effort (MOE) is a basic condition of project eligibility which requires the amount of State and local government funds and certain nonfarebox transit revenues applied against eligible operating expenses in the project year to be at least equal to the average for the two preceding local fiscal years. A detailed discussion of MOE is provided in Chapter 8.0.0.0; application procedures and formats for documenting compliance with the MOE requirement are provided in UMTA C 9050.1, pages III-24 through III-35. In addition, Appendix B of UMTA C 9050.1 provides detailed information on the treatment of various revenues in the calculation of MOE.

The sum of all funds contributed from sources that are subject to MOE which are applied against eligible transit operating expenses during one local fiscal year is called the net Level of Effort (LOE). In effect, MOE may be said to require that the Project Year LOE be at least equal to the average LOE's of the two preceding local fiscal years. Therefore, in order to determine that an applicant is in compliance with MOE, it is necessary to know the following information:

- LOE for the Project Year.

- LOE for the local fiscal year immediately preceding the Project Year (i.e., Project Year-1).

- LOE for the local fiscal year ending 12 months prior to the Project Year (i.e., Project Year-2).

- The average of the LOEs for Project Years-1 and 2.

If the Project Year LOE is greater than or equal to that amount in #4 above, the MOE requirement is met and a Section 5 grant can be made. Failure to meet the MOE requirement renders an applicant ineligible for Section 5 assistance, regardless of the amount of shortfall.

Applicants for Section 5 assistance demonstrate compliance with MOE by submitting "LOE Schedules" for each of the three years covered (i.e., the Project Year, Project Year-1, and Project Year-2). Each year's LOE schedule should indicate all sources of income, broken down among 16 basic categories. For each source, the applicant indicates total revenue, the amount thereof which was applied (or is expected to be applied) to cover eligible operating expenses, and the amount thereof which covers other than eligible operating expenses. Of the amounts applied to cover eligible expenses, the applicant further distinguishes whether the source was or was not subject to MOE, based on the prescribed treatment of various revenues outlined in Appendix B of UMTA C 9050.1. The sum of all funds from sources subject to MOE which are applied against eligible expenses constitutes the net LOE for the Project Period.

In reviewing and accepting the LOE schedules submitted by operating assistance applicants, transportation representatives should determine the following:

- That the project period, transit operator(s), designated recipient, and other information on page one of the LOE schedule are properly identified and correct;

- That the LOE schedule has been prepared in accordance with UMTA C 9050.1 and that the itemized revenues have been properly treated;

- That the information presented in the LOE schedule is consistent with that indicated on the application forms and project budget (see Chapter 7);

- That the LOE schedules have been properly certified by the applicant; and

- That an audit report or other appropriate independent verification of LOE data has been submitted for Project Year-2 and for Project Year-1 if it is not based on estimates.

In general, it is not the responsibility of transportation representatives to cross-check LOE schedules against audited statements. The applicant's certification will typically constitute a sufficient basis to accept the information as submitted. However, it is necessary to determine that the information presented appears reasonable, that it appears to conform to the policies prescribed in UMTA C 9050.1, and that the applicant's arithmetic is correct. It is important to read the auditor's certification letter to identify any conditions placed on the audit results and to determine whether such conditions affect funding eligibility. In any case, the certification must indicate that an audit has been made. Questions concerning the acceptance of audit certifications should be referred to UAD-30.

Applicants must submit an audit report or other independent verification of LOE data for Project Year-2 and for Project Year-1 if it is not based on estimates. Where questions arise regarding the proper treatment or accuracy of revenue items presented in an LOE schedule such materials may be useful in resolving problems. However, audit reports submitted with LOE schedules will be used primarily to close out prior year projects and to satisfy requirements in prior year grant contracts. In general, transportation representatives need not verify each entry in the LOE schedules against audited statements, since the applicants are themselves required to certify that the schedules conform with UMTA C 9050.1.

Where the LOE schedules for both Project Years-1 and 2 reflect actual, audited figures, the compliance with MOE can be determined exactly. However, UMTA C 9050.1 outlines a procedure by which the application for operating assistance can be submitted before actual figures for Project Year-1 are available. In such cases the conditional grant approval procedure outlined in Chapter 8 shall be utilized.

Once the LOE schedules have been accepted, indicate the date and basis on which the MOE requirement is satisfied (i.e., unconditionally or conditionally) on the application review checklist.

(9) Exhibit C: Transit System and Urbanized Area Description. Procedures for the review and acceptance of material submitted in this exhibit are provided in paragraph 2a(12) of this manual.

(10) Exhibit D: Public Hearing. An opportunity for public comment on each application for UMTA assistance is required. Requirements for the public hearing on Section 5 operating assistance projects are detailed in UMTA C 9050.1, pages III-37 through III-40.

In accepting the public hearing documentation, transportation representatives should make the following determinations:

1. That notice of the public hearing was properly given (i.e., that the required information was contained in the notice, that the notice was published in the proper media and provided to the proper local elected officials, that the notice appeared the necessary number of days prior to the hearing, and that certified copies of the published notice are submitted);

2. That a certified, verbatim transcript of the public hearing has been submitted; and

3. That the applicant has executed and submitted the required standard certifications (see UMTA C 9050.1, page III-40).

Because a copy of the application must be on public display prior to the public hearing, many applicants forward their applications to UMTA at the time notice is given. Therefore, copies of the notices, the certified transcript, and the standard certifications may be submitted after the application is filed with UMTA.

The public hearing is an opportunity for local public comment regarding the social, economic, and environmental effects of proposed transit assistance projects. In addition, comments raised at public hearings may reflect upon the applicant's compliance with other program and project requirements (e.g., elderly and handicapped half-fares, competition with private transportation operators, etc.). Finally, the public hearing provides an opportunity for comment by private charter and school bus operators regarding the applicant's proposed charter and school bus operations (see paragraph 2.b(11)). In reviewing public hearing transcripts, transportation representatives must evaluate comments raised in connection with the above issues to determine whether problems exist which require remedial action by the applicant prior to grant award.

Public hearing transcripts will also be reviewed independently by Civil Rights staff to identify possible Civil Rights concerns. Procedures for this review are provided in UMTA C 1160.1 and UMTA C 4710.1.

(11) Exhibit E: Charter and School Bus Operations. Requirements for demonstrating compliance with UMTA's Charter and School Bus regulations (49 CFR 604 and 605, April 1, 1976) are provided in UMTA C 9050.1, pages III-41 through III-43.

An operator who does not operate charter bus service outside its transit service area and/or did not derive more than $15,000 from charter bus operations during its most recently completed fiscal year needs only to submit the statement quoted on pages III-41 of UMTA C 9050.1 in this exhibit. An operator who does not operate school bus service, as defined by the regulation, needs only to submit the statement quoted on page III-42 of UMTA C 9050.1 in this exhibit. In such cases, the transportation representative may accept the

statements as given, without requiring any further documentation from the applicant.

Where the operator does provide charter bus service outside its transit service area and did derive more than $15,000 from charter operations during the preceding year, UMTA C 9050.1 indicates several specific items which must be submitted. Similar documentation must be submitted if the operator engages in school bus service. Where such information is submitted, transportation representatives should work with the regional office legal counsel to determine whether the data provided is satisfactory and to include appropriate language in the grant contract.

(12) One-Time Submissions. As indicated previously, several basic application items need only be submitted once. (See UMTA C 9100.1.) Subsequent applications need only incorporate the one-time submission by reference or update the material previously filed. For each item, the transportation representative must indicate on the application review checklist whether: (1) A new submission has been accepted; (2) A previously accepted submission has been incorporated by reference; or (3) A previous submission has been updated with new information which has been accepted. There are two basic categories of one-time submissions:

Application Eligibility Documentation and Standard Assurances

Application requirements for this material appear in Section I of UMTA C 9050.1, pages I-1 through I-22. Four individual submissions which comprise 99is category are: (a) The basic opinion of counsel, (b) Verbatim project assurances, (c) Assurance of Compliance with Title VI of the Civil Rights Act of 1964, and (d) Designation of recipients. Typically, these items will not change, once they have been submitted initially. Subsequent to the initial submission, therefore, applicants will usually need only to cite the verbatim statement on page III-17 of UMTA C 9050.1 which incorporates the initial submission by reference in each new application. (NOTE: The basic Opinion of Counsel is different from that discussed in paragraph 2(a)(6))

Where the one-time submission of applicant eligibility documentation and standard assurances has been accepted previously and the applicant for a new Section 5 operating assistance application submits the statement on page III-17, transportation representatives may indicate acceptance of these items as being "on file."

Where the applicant is making the initial submission of applicant eligibility documentation and standard assurances, these items should be removed from the project file by the transportation representative and placed in a separate, permanent file. (Procedures for establishing and maintaining an "entity-based" filing system are provided in UMTA C 1324.1.) In accepting the initial submission of these items, the transportation representative should determine the following:

(a) That the basic opinion of counsel addresses the necessary items listed on page I-5 of UMTA C 9050.1 and is properly signed by the applicant's attorney;

(b) That the Standard Project Assurances are taken verbatim from those presented on pages I-9/I-10 of UMTA C 9050.1, that they have been properly executed by the applicant and certified by the applicant's attorney;

(c) That the Assurance of Compliance with Title VI of the Civil Rights Act of 1964 is taken verbatim from the text presented on pages I-12 through I-19 of UMTA C 9050.1 and that it has been properly executed by the applicant;

(d) That all required documentation for the designation of recipients has been submitted and acknowledged or concurred in by UMTA;

(e) That in each case, the applicant/grantee is properly identified and is the signatory.

NOTE: In most instances, the necessary designation of recipients will already have been completed.

Updates to the one-time submission of applicant eligibility documentation and standard assurances

will rarely be submitted as long as the applicant and the operator(s) for whom assistance is sought remain the same. Therefore, it is expected that in most cases the on-file submission of this material will simply be incorporated by reference in operating assistance applications.

b. Transit System and Urbanized Area Description. Application requirements for this material appear in Section II of UMTA C 9050.1, pages II-1 through II-11. Four individual submissions that comprise this category are: (a) Transit system overview, (b) Labor, (c) Elderly and handicapped half-fares, and (d) Distribution of Transportation benefits. Typically, these items will not change substantially once they have been submitted initially. Subsequent to the initial submission, therefore, applicants will frequently need only to cite the verbatim statement on page III-36 of UMTA C 9050.1 which incorporates the initial submission by reference in each new application.

Where the one-time submission of transit system and urbanized area descriptive information has been accepted previously and the applicant certifies that no changes have occurred using the statement on page I-36, transportation representatives may indicate acceptance of these items as being "on file."

It should be noted that application requirements concerning the distribution of transportation benefits of UMTA C 9050.1 have been superseded by UMTA C 1160.1. In addition, compliance with the requirements prescribed in UMTA C 1155.1 (EEO Policy) and UMTA C 1165.1 (MBE Policy) represents a separate project eligibility requirement for which UMTA Civil Rights staff will be responsible. Furthermore, the acceptance of this information and annual updates thereto is the responsibility of regional office Civil Rights staff. Therefore, the acceptance of Civil Rights-Distribution of Transportation Benefits information on the application review checklist is contingent upon a satisfactory certification of compliance with Title VI by the Civil Rights staff. Procedures for this review are provided in UMTA C 4710.1.

It is not expected that the information initially filed concerning labor and elderly and handicapped half-fare procedures will change over time. However, the basic transit system description will probably require at least some limited annual updating. (At a minimum, each applicant must annually update the projected

ridership data.) Where the applicant is making the initial submission of urbanized area and transit system descriptive information or is updating material already on file, these items should be removed by the transportation representative and placed in a separate, permanent file. In accepting these items, transportation representatives should determine the following:

1. That the necessary transit system overview information outlined in UMTA C 9050.1 has been provided;

2. That the discussion of other mass transportation carriers in the urbanized area provided in the transit system overview does not indicate noncompliance with requirements under Section 3(e);

3. That the bargaining agent(s) for the operator(s) employees is identified in the labor section;

4. That the necessary information regarding elderly and handicapped half-fares during off-peak hours has been submitted and demonstrates compliance with the requirements under Section 5(m) (see Chapter 9).

c. Application Review Letter. Upon receipt of new applications, transportation representatives should perform an initial review, indicating on the application review checklist all items received in acceptable form. Upon completion of the initial review, transportation representatives should prepare an application review letter to the applicant, confirming basic information and listing the items needed to complete the review.

Basic information to be confirmed includes the project number, name of applicant and operator(s) to be assisted, project period, and amount of UMTA funds requested. Where the designated recipient is not also the applicant and transit operator, it may be appropriate to confirm the type of contract (two-party or tripartite) which will be used.

A sample application review letter is provided as Attachment 4. The purpose of this letter is to inform the applicant of project status and to communicate any comments or concerns raised during the initial project

review. Therefore, transportation representatives may alter the format provided in Attachment 4 as necessary. Where items included in the application are not acceptable as submitted, it is particularly important that clear explanation be given in the review letter and that specific instructions be provided for correcting unacceptable submissions. Usually, it will be sufficient to reference the appropriate citation in UMTA C 9050.1.

d. Completion of the Application Review. After all application items have been reviewed and accepted, the transportation representative should sign the application review checklist, indicating that the application is now complete and ready for approval. Transportation representatives should append explanatory memoranda or other documentation to the signed application review checklist to support the determinations made, if appropriate, particularly where an applicant's submissions were found unacceptable during the initial review or where financial data in Exhibits A and/or B reflect unique or unusual circumstances.

e. Status Reporting to UTA During Project Review. Instructions for reporting of project status information by Regional Offices to UTA are provided in UMTA C 5100.1 As the review of each application for Section 5 operating assistance proceeds, appropriate information regarding project status may need to be indicated on the monthly report to UTA.

3. Project Approval. This section outlines procedures for the approval of Section 5 operating assistance projects following the satisfactory completion of all necessary prereview and application review steps:

a. Prevalidation. Regional offices will be responsible for prevalidation of funds to be committed for each grant prior to project approval. For Section 5 projects, prevalidation constitutes a determination that the funds to be committed are available under current apportionments to the grantee's urbanized area or to the Governor if the urbanized area is under 200,000 population. Chapter 4, paragraph 4 discusses accounting procedures for the monitoring of Section 5 funding availability in each area. Prevalidation also requires checking the availability of funds against the Regional Office budget allocation. Procedures for the development, management, and control of the regional

budget system are provided in UMTA circular entitled "Regional Management Guidelines."

Paragraph 3.b.(2) discusses situations in which a grant can be made which includes funds not yet available to the grantee's urbanized area. In such situations, only the funds currently available can be prevalidated. Funds to be approved "subject to their availability" must be noted as such on the prevalidation form by transportation representatives. Once such funds do become available, the transportation representatives are responsible for ensuring that the administrative commitment of new funds is properly recognized.

Transportation Representatives should initiate prevalidation. Upon the completion of prevalidation, the transportation representatives should enter the prevalidation amount in the Project Findings and Determinations that is forwarded with the approval package.

b. Contracts. Section 5 grant contracts will be prepared by the regional office legal staff. Transportation Representatives should initiate contract preparation when each application is complete by forwarding the necessary information to the regional legal staff (Attachment 5). Special conditions to be specified in the contract, if any, should also be noted.

(1) Types of Contracts. There are two basic types of Section 5 operating assistance grant contracts. Direct, two-party contracts are utilized when the designated recipient will act as grantee and bear legal responsibility for carrying out projects. Tripartite contracts are utilized when the designated recipient and grantee represent different entities. See UMTA C 9050.1, pages I-1 through I-3 for more detailed information regarding these different contractual arrangements and their implications. Tripartite contracts are different from conventional two-party contracts by the inclusion of a supplemental agreement (see UMTA C 9050.1, page I-4). The transportation representative should indicate which type of contract will be used when requesting that contracts be prepared by Regional Office legal staff.

(2) Funds Not Yet Available. The Federal fiscal year (on which basis Section 5 funds are apportioned) and the local fiscal year (on which basis project

period for operating assistance is determined) are often inconsistent. As a result, many transit operators do not have the full amount of apportioned funds available at the beginning of their local fiscal year which they intend to receive for operating assistance.

For example, assume an operator's fiscal year is July-June and that his operating assistance request for that period is $100. Assume, however, that on July 1 only $20 in apportioned funds are available to the operator's urbanized area, the remainder to become available with the Section 5 apportionment on October 1.

Section 5 procedures permit the full $100 grant to be approved, "subject to the availability" of funds. Under this procedure, the currently available $20 would be committed immediately; the remainder would be committed subject to its availability. In such situations, appropriate language must be included on the cover page of the grant contract (see Attachment 6), and there must be a formal notification to the designated recipient when funds do become available.

c. Approval Package Preparation. The approval package is a folder which contains all documents (including copies) required to perform the approval of projects and administrative commitment of funds. The following subsections provide instructions for preparing each item in the approval package.

(1) Approval Memorandum. A standard format for the Section 5 operating assistance approval memorandum appears at Attachment 7. The latter is to be used for all approvals which do not involve conditional approval or the administrative commitment of funds not currently available. It will be necessary to prepare this memorandum as appropriate, depending upon whether project approval will be made by the Regional Director or the Administrator. See UMTA 1100.18 and UMTA C 5100.1 regarding the delegation of this responsibility.

Attachment 8 provides language to be used in approval memoranda involving conditional approvals (see paragraph 3b(2)).

Attachment 9 provides language to be used in approval memoranda involving the commitment of

funds not currently available (see paragraph 3b(3)).

(2) Grant Award Letter. A standard format for the Section 5 operating assistance grant award letter appears in Attachment 10. The latter is to be used for all approvals which do not involve conditional approval or the administrative commitment of funds not currently available. It will be necessary to prepare this letter as appropriate, depending upon whether project approval will be made by the Regional Director or the Administrator. See current regional delegation of authorities regarding this responsibility.

Attachment 11 provides language to be used in grant award letters involving conditional approvals.

Attachment 12 provides language to be used in grant award letters involving the commitment of funds not currently available (see paragraph 3b(3)).

In all cases, grant award letters should be addressed directly to the designated recipient. However, where a different entity will act as grantee and/or transit operator, such entity or entities should receive copies.

Instructions for executing grant contracts are provided on a separate form (Attachment 13) which should be attached to each grant award letter.

(3) Project Budget. Attachment 14 provides a standard format for the approved project budget which should be prepared on the basis of information in Exhibits A and B of the application. In preparing the approved project budget format, note that the appropriate MACS code must be entered for lines 1 (eligible operating expenses) and 2 (revenues applied). The code for line 1 depends upon the type of service provided by the applicant:

10.95.00	Bus only
15.95.00	Rapid rail transit only
15.96.00	Commuter rail transit only
25.95.00	Water (ferry) transit only
30.95.00	Multimodal

The code for line 2 is always 41.00.00, as indicated on the attached format. Codes need not be assigned to other lines on the project budget format.

Complete the cash drawdown and MOE information based upon the grantee's anticipated cash requirements and the accepted LOE schedules in Exhibit B.

(4) Findings and Determinations. Attachment 15 provides a standard format for the findings and determinations which must be made for each Section 5 operating assistance project. The language for these findings and determinations is standard for all projects and should not need to be modified. It is necessary only to enter the appropriate project number in the space provided on page one.

(5) Contracts. Instructions for the preparation of grant contracts appear in subsection paragraph 3b. The original and five copies of the contracts should be included in the approval package.

(6) Public Affairs Forms. Attachment 16 provides a standard format for completing Public Affairs forms to be used in the grant release process (see paragraph 3c).

(7) Labor Certification. Procedures for certification of labor protective arrangements pursuant to Section 13(c) are discussed in paragraph 2b(2). The certification letter received from the Department of Labor should be included in the approval package.

(8) Assembling the Approval Package. The following lists items and copies thereof to be included in the approval package:

Cover Page (stapled to outer cover of package)

Left-Hand Pocket (top to bottom):

- Original Approval Memo and yellow grid copy
- Findings and Determinations (original only)
- Original Approved Project Budget and two Xerox copies
- Labor Certification Letter (original only)
- Prevalidation Form (original only)

Right-Hand Pocket (top to bottom):

Original Grant Award Letter, with contract execution instructions attached, yellow grid, and necessary copies (if any)
Original Grant Contract and five copies
Public Affairs Form (original only)
Original MACS forms and one copy each

d. Circulation of Approval Packages. Approval packages should be processed in sequence among responsible elements according to the cover page to obtain the necessary concurrences and signatures. Follow the procedures provided in UMTA C 5100.1 for transmitting approval packages which require Headquarters approval.

e. Execution of Contracts. The standard grant award letter contains instructions to grantees for executing their grant contracts. The grantee's governing body must formally authorize an individual to execute the contracts (if such authorization was not originally covered--see UMTA C 9050.1, page III-14). In addition, the grantee's attorney is required to certify that the contracts were properly executed.

Of the five copies of each grant contract, two are retained by the grantee. Three must be returned, along with one copy of the authorizing resolution noted above, to the Regional Office legal counsel. The legal counsel is responsible for making a final determination that the contracts have been properly executed, as noted by the counsel's initialing and dating the cover page of each copy. Following this step, one copy is retained by counsel, one copy is forwarded to the accounting staff, and the third copy (along with the authorizing resolution) is returned to the transportation representative for placement in the official project file..

After these steps have been completed, the project is ready for disbursement.

DOL Transmittal Letter

Regional Directors may wish to sign a basic transmittal letter which can be reproduced and filled in to transmit individual applications. The "subject" line should indicate the name of applicant and project number.

Use separate transmittal letters for each application.

NOTE: If the project involves a commuter railroad, six additional copies must be transmitted to DOL.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

Honorable Francis X. Burkhardt
Assistant Secretary of Labor
New Labor Department Building
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Subject: Application form

Dear Mr. Burkhardt:

Enclosed are two (2) copies of the subject grant application. Please advise us of the Section 13(c) terms and conditions for inclusion in the grant contract.

Sincerely,

_____
Director, Region ___

Enclosures

APPLICATION REVIEW CHECKLIST
Section 5 Operating Assistance

Project No. _____ Date Received: _____

Date Accepted

_____ Application is consistent with current approved TIP/AE.

_____ 13(c) Certification received

_____ Cover Letter (if designated recipient is not applicant)
_____ Application Forms (SF 424 and Part III)
_____ Authorizing Resolution
_____ Legal Assurance

_____ Project Budget Accepted. Based upon applicant's certification of eligible operating expenses, net project cost and local share, the UMTA funds to be committed for this project are $_____.

_____ Maintenance of Effort Accepted. Based upon the applicant's certification of LOE schedules for the applicable periods:

__ Application requirements for MOE are met.
__ Application requirements for MOE are met conditionally, pending the submission of audited statements and final LOE schedule for Project Year-1.

_____ Public Hearing (Notice and Transcript)
_____ Standard Certification for Sections 3(d) and 5(i)
_____ Charter and School Bus Operations

New	On File	Updated	Acceptance
___	___	___	Basic Opinion of Counsel
___	___	___	Standard Project Assurances
___	___	___	Title VI Civil Rights Assurance
___	___	___	Designation of Recipients
___	___	___	Description of Public Transp. System (3(e) compliance)
___	___	___	Labor
___	___	___	Off-Peak Half-Fares for Elderly and Handicapped
___	___	___	Distribution of Transportation Benefits

COMMENTS:

The subject application is now complete.

_____
(Transportation Representative)
DATE:

Sample Application Review Letter

The following sample application review letter provides basic guidance on the format and general type of language to be employed. Obviously, each such letter must be tailored to address the specific issues involved in a given application.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

Mr. John A. Doe
General Manager
Midville Regional Transit Authority
P.O. Box 337
Midville, Illinois 60000

Re. Project No. IL-05-4099

Dear Mr. Doe:

We are in receipt of your recent application for the subject operating assistance project under Section 5 of the Urban Mass Transportation Act of 1964, as amended. This application requests $524,000 in Section 5 assistance to cover eligible transit operating expenses of the Midville Regional Transit Authority for the period January 1, 1977 through December 31, 1977.

Our preliminary review indicates that your application is now complete except for the following items:

1. Certification of labor protective arrangements under Section 13(c) by the U.S. Department of Labor;

2. Submission of a certified public hearing transcript and standard certifications to satisfy requirements under Sections 3(d) and 5(i) of the Act; and

3. Final certification of compliance with Title VI of the Civil Rights Act of 1964 pursuant to UMTA C 1160.1 which is now in process.

In addition, we are concerned that the updated description of off-peak half-fare procedures submitted in Exhibit C of your application does not contain a definition of off-peak hours. Please consult UMTA C 9050.1, page II-7, and submit the definition of off-peak hours to be used in implementing your new procedures.

If you have any further questions, please contact_____of my staff at_____.

Sincerely,

Director, Region___

Contract Information

The standard operating assistance grant contract cover page identifies specific project information relating to the grant. The following provides a blank copy and a sample.

URBAN MASS TRANSPORTATION
OPERATING ASSISTANCE GRANT CONTRACT
PART I

Project No.

DESIGNATED RECIPIENT:

GRANTEE:

MASS TRANSPORTATION SYSTEM:

PROJECT TIME PERIOD:

ELIGIBLE PROJECT OPERATING EXPENSES:

FEDERAL SHARE:

DATE OF 13(c) CERTIFICATION LETTER FROM THE DEPARTMENT OF LABOR:

URBAN MASS TRANSPORTATION
OPERATING ASSISTANCE GRANT CONTRACT
PART I

Project No. IL-05-4099

DESIGNATED RECIPIENT: Midville Regional Transit Authority
GRANTEE: Midville Regional Transit Authority

MASS TRANSPORTATION SYSTEM: Midville Regional Transit Authority

PROJECT TIME PERIOD: January 1, 1977 through December 31, 1977

ELIGIBLE PROJECT OPERATING EXPENSES: $2,084,337 (Two Million, Eighty-Four Thousand, Three Hundred Thirty-Seven Dollars)

FEDERAL SHARE: $525,000 (Five Hundred Twenty-Five Thousand Dollars)

DATE OF 13(c) CERTIFICATION LETTER FROM THE DEPARTMENT OF LABOR: August 8, 1977

Contract Language for Funds Not Yet Available

Use the following operating assistance grant contract cover page where the grant includes funds not currently available.

URBAN MASS TRANSPORTATION
OPERATING ASSISTANCE GRANT CONTRACT
PART I

Project No. IL-05-4099

Designated Recipient: Midville Regional Transit Authority

GRANTEE: Midville Regional Transit Authority

MASS TRANSPORTATION SYSTEM: Midville Regional Transit Authority

PROJECT TIME PERIOD: January 1, 1977 through December 31, 1977

ELIGIBLE PROJECT OPERATING EXPENSES: $2,084,337 (Two Million, Eighty-Four Thousand, Three Hundred Thirty-Seven Dollars)

FEDERAL SHARE: $525,000 (Five Hundred Twenty-Five Thousand Dollars)*

DATE OF 13(c) CERTIFICATION LETTER FROM THE DEPARTMENT OF LABOR: August 8, 1977

*Of this amount $100,000 (One Hundred Thousand Dollars) is currently available and $425,000 (Four Hundred Twenty-Five Thousands Dollars) is subject to the availability of funds.

Attachment XI-7

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION

DATE:

In reply refer to:

SUBJECT: Approval - Urban Mass Transportation Operating Assistance Project No._____

FROM :

TO :

1. Designated Recipient

   Applicant:
   Urbanized Area:
   Population:

2. Project Description and Cost

   This project is for Section 5 operating assistance to cover eligible transit operating expenses of _____ during the period _____ through _____. The project budget attached represents the utilization of $_____ from the Section 5 formula apportionment to the _____ urbanized area.

3. Justification

   This project is consistent with and pursuant to the annual element of the Transportation Improvement Program for the utilization of formula funds apportioned to the _____ urbanized area which was approved by UMTA on _____.

4. Recommendation

   I recommend approval of this project. Funds in the maximum amount of $_____ have been prevalidated under the provisions of Section 5 of the Urban Mass Transportation Act of 1964, as amended. The required legal and administrative findings are included in the Project Findings and Determinations attachment. This attachment is herein incorporated by reference and made part of the approval memorandum.

_____
Regional Director

APPROVED: _____

Date: _____

Approval Memorandum Language for Grants
Involving Conditional Approvals

4. Recommendation

I recommend approval of this project in the maximum amount of $_____, conditional upon the submission of audited financial statements for the local fiscal year ending _____ to support the final determination of Maintenance of Effort under Section 5(f) of the Act. Pursuant to this conditional approval, the disbursement of funds reserved for this project shall not exceed the grantee's eligibility based upon six months' eligible expenses or 80% of the total amount administratively committed herewith, whichever is lesser, until the necessary audited statements are submitted and a final determination of maintenance of effort is made.

Funds in the amount of $_____ have been prevalidated under the provisions of Section 5 of the Urban Mass Transportation Act of 1964, as amended. The required legal and administrative findings are included in the Project Findings and Determinations attachment. This attachment is herein incorporated by reference and made part of the approval memorandum.

Approval Memorandum Language for Grants
Involving Funds Not Currently Available

4. Recommendation

I recommend approval of this project in the maximum amount of $_____. Of this total, funds in the amount of $_____ have been prevalidated under the provisions of Section 5 of the Urban Mass Transportation Act of 1964, as amended. Funds in the amount of $_____ will be prevalidated from the FY ____ apportionment, subject to the availability of funds.

The required legal and administrative findings are included in the Project Findings and Determinations attachment. This attachment is herein incorporated by reference and made part of the approval memorandum.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
WASHINGTON, D.C. 20590

Name and Address of
Designated Recipient

Re Project No. _____

Dear _____:

I am pleased to advise you that your application for an operating assistance grant under Section 5 of the Urban Mass Transportation Act of 1964, as amended, has been approved in the maximum amount of $_____. This grant covers eligible transit operating expenses of _____ during the period _____ through _____.

Enclosed are two copies of the approved project budget and five counterparts of an Offer of Contractual Assistance executed on behalf of this Administration. Instructions which you should follow in executing these counterparts are ~~attached~~ included. We are also enclosing two bulletins pertaining to UMTA financial reporting requirements to assist you in implementing this grant.

We look forward to working with you in carrying out this worthwhile project.

Sincerely,

Enclosures

cc. Grantee if other than designated recipient
Transit operators if other than grantee

Grant Award Letter Language for Projects Involving Conditional Approvals

This grant is approved subject to the submission of final audited financial statements by _____ for the local fiscal year ended _____ and the final determination of maintenance of effort pursuant to the provisions of Section 5(f) of the Act. The disbursement of available funds administratively committed for this project shall not exceed the grantee's eligibility based upon six months' eligible transit operating expenses or 80% of the maximum amount of this grant, whichever is lesser, until the necessary audited statements are submitted and the final determination of maintenance of effort is made. You will be notified by letter upon our receipt and acceptance of the necessary audited financial statements.

Grant Award Language for Grants Involving Funds Not Currently Available

Of the maximum amount approved for this project, $_____ is currently available from the _____ apportionment of formula funds to the _____ urbanized area. In addition, the maximum amount of this grant includes $_____ from the FY___ apportionment, subject to the availability of funds. Funding availability is subject to Congressional action, OMB apportionment, and an UMTA allotment of funds. In addition, funding availability is subject to the continuity of statutory provisions for Section 5 assistance. You will be notified by letter upon the availability of FY ___ funds.

INSTRUCTIONS FOR EXECUTING CONTRACTS

The attached are five (5) counterparts of an Offer of Contractual Assistance which have been executed on behalf of the Urban Mass Transportation Administration. These counterparts should be executed in accordance with appropriate authorizing proceedings and certified by your attorney. The authorizing proceedings (either a resolution or certified copy of an excerpt from the minutes of the governing body's meeting) should include the following language: "That _____, (name and/or title) is hereby authorized to execute the contract pertaining (or related to) the grant application." Please note that simply resubmitting a copy of the standard resolution authorizing the grant application does not itself satisfy legal requirements with respect to the execution of these contracts.

In the event your attorney is unable to make the certification because of pending legislation or litigation which might affect the prosecution of the project, a concise description of the reasons should be forwarded to UMTA.

Three copies of the executed counterparts and two certified copies of the authorizing proceedings should be returned within sixty (60) days of the date of the Government's execution of the contract to:

[Insert regional counsel's name and address]

In the event the counterparts cannot be returned within the sixty (60) day period, the Administration should be immediately notified by letter setting forth the reason for the delay and requesting an extension of the offer.

APPROVED PROJECT BUDGET

Project No.: _____ Project Period: _____

Grantee: _____

Transit Operator(s): _____

Project Budget Line Item Code:	Description:		Amount
_____	(1)	Eligible Transit Operating Expenses...	$_____
41.00.00	(2)	Revenues Applied to Eligible Operating Expenses Not Includable as Local Share	$_____
	(3)	Net Project Cost.....	$_____
	(4)	Local Share.....	$_____
	(5)	Net Expenses Before Applying UMTA Funds	$_____
	(6)	UMTA Operating Assistance.....	$_____

Governing Requirements

(A) UMTA assistance not to exceed line (4)
(B) UMTA assistance not to exceed line (5)

Conditions.

___ UMTA Operating Assistance includes $_____ subject to the availability of funds from the FY ____ formula apportionment to the urbanized area. (Check if applicable.)

___ Disbursement of UMTA Operating Assistance subject to conditions specified in grant award letter. (Check if applicable.)

Federal Cash Drawdown Schedule (Estimated)

Federal FY___			Federal FY___		
	1st. Qtr.	$		1st. Qtr.	$
	2nd. Qtr.	$		2nd. Qtr.	$
	3rd. Qtr.	$		3rd. Qtr.	$
	4th. Qtr.	$		4th. Qtr.	$

Total UMTA Funds: $_____

Maintenance of Effort Determinations

Audited	Estimated		
____		Project Year-2 LOE:	$
____	____	Project Year-1 LOE:	$
____	____	Required MOE:	$
____	____	Project Year LOE:	$

Attachment to Project No.

PROJECT FINDINGS AND DETERMINATIONS

1. Pursuant to Section 5(b)(2) of the Act, it is determined that the designated recipient involved in this project has been duly designated a recipient by the Governor, responsible local officials and publicly owned operators of mass transportation services, in accordance with the procedures required under Section (g)(1) of the Act, and with the concurrence of the Administrator, Urban Mass Transportation Administration.

2. In accordance with Sections 3(d) and 5(i) of the Act, the grantee has submitted a certification to the effect that it:

   (a) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

   (b) has considered the economic and social effects of the project and its impact on the environment, including requirements under the Clean Air Act, the Federal Water Pollution Control Act, and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community; and

   (c) has found that the project is consistent with official plans for the comprehensive development of the urban area.

3. Pursuant to Section 3(e) of the Act there is adequate justification for the finding that the grant assistance to be extended (1) is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area, (2) that such program to the maximum extent feasible provided for the participation of private mass transportation companies, (3) just and adequate compensation will be paid to such companies for acquisition of their franchises or property to the extent required by applicable State or local laws.

4. Pursuant to Section 5(1) of the Act, it is determined that the project is:

   (a) needed to carry out a program, meeting criteria established by the Secretary, Department of Transportation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area;

   (b) necessary for the sound, economic, and desirable development of such area;

   (c) and that the applicant or responsible agency has the legal, financial, and technical capacity to carry out the proposed project.

5. Pursuant to Section 5(1), it is determined that the responsible public officials of the urbanized area in which the project is located have been consulted and, except for projects solely to pay subsidies for operating expenses, their views considered with respect to the corridor, location, and design of the project.

6. Pursuant to Section 5(h)(2) of the Act, it is determined that possible adverse economic, social, and environmental effects relating to the proposed project have been fully considered in developing the project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and conservation of environment and natural resources, and the cost of eliminating or minimizing any such adverse effects, including:

   (a) air, noise, and water pollution;

   (b) destruction or disruption of man-made and natural resources, esthetic values, community cohesion, and the availability of public facilities and services;

   (c) adverse employment effects, and tax and property value losses;

   (d) injurious displacement of people, businesses, and farms; and

   (e) disruption of desirable community and regional growth. The operating assistance project has been

found to have no significant or adverse social, economic, or environmental impact.

7. Labor Determination. The Department of Labor has specified by letter the grant contract provisions necessary to comply with Section 13(c) of the Act. The Secretary of Labor has determined that fair and equitable arrangements have been made to protect the interest of employees affected by this assistance, as required by Section 13(c) of the Urban Mass Transportation Act of 1964, as amended. Such arrangements will be incorporated in the contract for assistance when executed.

8. Pursuant to Section 3 (f) and (g) of the Act, the grantee has made the necessary certifications, and such certifications will be made part of the contract for assistance.

9. Comprehensive and Transportation Planning. In accordance with OMB Circular A-95 and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, the application has been submitted to the appropriate State and regional agencies by the applicant. Favorable comments from these agencies have been received and are a part of the project file.

Supportive Findings

10. Pursuant to Section 5(f) of the Act, the grantee has provided satisfactory assurances that Federal funds in this project are supplementary to and not in substitution for the average amount of the State and local government funds and other transit revenues such as advertising, concessions, and property leases, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are provided.

11. Pursuant to Section 5(m) of the Act, the grantee has provided satisfactory assurances that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under Section 5 of the Act will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the grantee or is by another entity under lease or otherwise.

Grant Guidelines - The project has been reviewed in light of the guidelines and the information contained in the application is sufficient to qualify the project for approval.

Civil Rights Determinations. The UMTA Office of Civil Rights (Regional Civil Rights Officer) has certified the applicant as being in compliance with Title VI of the Civil Rights Act of 1964 and implementing regulations, Circulars, and administrative requirements pursuant to that statute. The Office of Civil Rights (Regional Civil Rights Officer) has determined that the applicant is subject to UMTA C 1155.1 (EEO Policy) and/or UMTA C 1165.1 (MBE Policy) and has approved the applicant's written program(s) pursuant to the Circular(s).

Public Affairs Forms

The following provide a blank and sample of Form UMTA F 101, Proposed Award of Contract or Grant which is used to summarize basic information about each operating assistance grant for the release process.

SUBJECT: Proposed Award of Contract or Grant

FROM: _____

TO: Director of Public Affairs, S-80
Director of Public Affairs, UPA-1

The following contract or grant is proposed for award:

CONTRACT OR GRANT NUMBER: _____

ADMINISTERED BY: _____

NAME/ADDRESS OF CONTRACTOR OR GRANTEE:

_____

_____

_____

Contractor or Grantee Contact for Further Information: (The contact should be the Contractor's or Grantee's public information officer.)

Name/Title: _____

Phone: ( ) _____

Amount: _____ Amount Previously Obligated: _____

Source(s) of Local Share: _____

_____

SUMMARY OF WORK TO BE PERFORMED: (Include enough information to clearly describe the work to be done. In addition, attach the detailed copy of the statement of work):

_____

_____

_____

_____

_____

_____

PLACE(s) OF PERFORMANCE: _____

_____

SUBJECT: Proposed Award of Contract or Grant

FROM: Director, Region

TO: Director of Public Affairs, S-80
Director of Public Affairs, UPA-1

The following contract or grant is proposed for award:

CONTRACT OR GRANT NUMBER: IL-05-4099

ADMINISTERED BY: UMTA Region

NAME/ADDRESS OF CONTRACTOR OR GRANTEE:

Midville Regional Transit Authority

P.O. Box 337

Midville, Illinois 60000

Contractor or Grantee Contact for Further Information: (The contact should be the Contractor's or Grantee's public information officer.)

Name/Title: John A. Doe/General Manager

Phone: (337) 555-1000, ext. 33

Amount: $525,000 Amount Previously Obligated: -0-

Source(s) of Local Share: State and local subsidies and non-farebox transit revenues.

SUMMARY OF WORK TO BE PERFORMED: (Include enough information to clearly describe the work to be done. In addition, attach the detailed copy of the statement of work):

Operating assistance for the period January 1, 1977-December 31, 1977.

PLACE(s) OF PERFORMANCE: Midville, Illinois

PROJECT OFFICER AND EXTENSION: _____

WILL THE CONTRACT OR GRANT INCLUDE R & D FUNDS? _____

IF A CONTRACT - -

A. ADVERTISED OR NEGOTIATED? _____

B. COMPETITIVE OR SOLE SOURCE? _____
(If sole source, attach justification)
(If competitive, identify by attachment the bidders or offerors and their proposed prices. If a technical evaluation was required, also identify offerors determined to be capable of performing the required work.)

C. IS AWARD TO BE MADE TO THE LOW BIDDER, OR TO THE LOW OFFEROR DETERMINED TO BE CAPABLE OF PERFORMING THE WORK? _____
(If award is not being made to such a low bidder or offeror, attach a justification for the proposed award.)

D. HAS A PROTEST AGAINST AWARD BEEN FILED, OR IS ONE EXPECTED TO BE FILED? _____
(If affirmative, submit details on an attachment)

IF A GRANT - -

A. Include as an attachment information on the grantee's capability to administer the grant, e.g., results of pre-grant award surveys, prior experience in handling Federal funds, results of recent audits, etc.

PRIOR CONGRESSIONAL INTEREST BY: _____

_____

CONGRESSIONAL NOTIFICATION TO:

Senator's Name, Party and Extension: _____

Senator's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

PROJECT OFFICER AND EXTENSION: J. Doakes, Region , ext.

WILL THE CONTRACT OR GRANT INCLUDE R & D FUNDS? No

IF A CONTRACT - -

A. ADVERTISED OR NEGOTIATED? _____

B. COMPETITIVE OR SOLE SOURCE? _____
(If sole source, attach justification)
(If competitive, identify by attachment the bidders or offerors and their proposed prices. If a technical evaluation was required, also identify offerors determined to be capable of performing the required work.)

C. IS AWARD TO BE MADE TO THE LOW BIDDER, OR TO THE LOW OFFEROR DETERMINED TO BE CAPABLE OF PERFORMING THE WORK? _____
(If award is not being made to such a low bidder or offeror, attach a justification for the proposed award.)

D. HAS A PROTEST AGAINST AWARD BEEN FILED, OR IS ONE EXPECTED TO BE FILED? _____
(If affirmative, submit details on an attachment)

IF A GRANT - -

A. Include as an attachment information on the grantee's capability to administer the grant, e.g., results of pre-grant award surveys, prior experience in handling Federal funds, results of recent audits, etc.

PRIOR CONGRESSIONAL INTEREST BY: n/a

CONGRESSIONAL NOTIFICATION TO:

Senator's Name, Party and Extension: _____

Senator's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

Representative's Name, Party and Extension: _____

CHAPTER XII
REQUISITIONS

1. Introduction. This chapter outlines procedures for the review and approval of requisitions for payment under Section 5 operating assistance projects. Eventually some or all such projects may utilize Letter of Credit procedures for disbursing funds. Letter of Credit procedures are detailed in its own circular and are not covered specifically by the following requisition procedures. Basic requisition requirements to be satisfied by grantees are outlined in Section 105 of the standard Section 5 grant contract.

   The requisition is the basis upon which the actual disbursement of Section 5 operating assistance is made (unless a Letter of Credit is used). As such, the requisition process serves the following basic functions:

   - To control the disbursement of funds pursuant to an approved grant,
   - To perform a formal determination of the grantee's eligibility for funds prior to disbursement, and
   - To monitor the grantee's performance under a grant.

The following section of this chapter provides detailed instructions for the internal processing, review, and approval of Section 5 operating assistance requisitions.

2. Preparation, Receipt, and Control of Requisitions. Requisitions will be submitted by Section 5 grantees directly to the cognizant UMTA regional office for processing and approval. Requirements concerning the payment of operating assistance to designated recipients and/or grantees (if a different entity) are detailed in UMTA C 9050.1, pages I-2 through I-3.

   Requisitions consist of the following items:

   - Standard Form 270, "Request for Advance or Reimbursement" (Attachment 1)
   - Statement of revenue and expense for the period covered by the requisition, demonstrating the grantee's eligibility for the amount requested, and
   - MACS Form 1340.6 (Attachment 2)

Additional instructions for the preparation of requisitions and related materials by grantees are provided in the UMTA circular entitled "Internal Project Management Guidelines for Sections 3, 5, 6, 9, 16(b)(2) and 17."

Each new requisition should be logged-in, input to MACS, and forwarded to the appropriate transportation representative upon receipt in the regional office. Instructions for the log-in, control, and input of new requisitions are provided in UMTA C 2710.1, MACS Reference Handbook.

3. Financial Review. A form is provided in Attachment 3 for use by transportation representatives in performing the financial review of Section 5 operating assistance requisitions. This form is basically comparable to the application review checklist. (See Chapter 11, paragraph 2.)

The determination of eligible operating expenses, revenues applied, net project cost, local share, and eligible UMTA funds for each requisition is performed in the same manner used in the initial application review. Operating assistance grantees may requisition payment of the Federal share of any actual expenses accrued to date and, in addition, the Federal share of estimated expenses during a forthcoming period not to exceed 90 days. Therefore, it is necessary that the grantee's statement of revenues and expenses clearly indicate the following information:

- Period covered for which actual expenses are documented,
- Period covered for which estimated expenses are documented,
- Itemized expenses, with proper eliminations, for both the actual and estimated periods,
- Itemized revenues, including local share, for both the actual and estimated periods, and
- UMTA funds requested.

Attachment 4 provides a sample revenue and expense statement, requisition form, financial review, and MACS Form 1340.6 for a hypothetical grantee.

As indicated in Attachment 4, if the grantee makes an error on the requisition form, the transportation representative may correct it without requiring the resubmission of the requisition. In general, however, if correcting the error

renders the grantee eligible for less UMTA assistance than anticipated, the grantee should be notified immediately before the requisition is approved.

In general, financial data submitted by the grantee may be accepted without requiring any further documentation, since the grantee's signature on the requisition form constitutes a certification as to the accuracy and veracity of such information. UMTA also does not prescribe the level of detail to be covered in revenue and expense statements. In some situations, however, the grantee's submission may appear unreasonable when compared with his initial application, or information on the revenue and expense statement may be inconsistent with that presented on the requisition form. In such situations, transportation representatives should contact the grantee to resolve problems and, if necessary, to request the submission of additional information.

4. Approval of Requisitions. Upon completion of the financial review discussed above, the transportation representative prepares a requisition approval package which consists of the following:

   - Request for Advance or Reimbursement, corrected by the transportation representative as necessary (original plus three Xerox copies). NOTE: It is essential that the original copy of the requisition form include an original ink signature by the grantee's authorized official.

   - Financial Review Form (original only), completed by the transportation representative.

   - Statement of Revenue and Expense (original plus one Xerox copy).

   - MACS Form 1340.6 (original only).

   On top of the package, attach a Request for Payment form (Attachment 5). The requisition package should then be forwarded to the Regional Director for approval.

   Following approval, the package is forwarded for final payment.

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-R0183

PAGE ___ OF ___ PAGES

1. TYPE OF PAYMENT REQUESTED
a. "X" one, or both boxes: ☐ ADVANCE ☐ REIMBURSEMENT
b. "X" the applicable box: ☐ FINAL ☐ PARTIAL

2. BASIS OF REQUEST: ☐ CASH ☐ ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6. EMPLOYER IDENTIFICATION NUMBER

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST
FROM (month, day, year)
TO (month, day, year)

9. RECIPIENT ORGANIZATION
Name :
Number and Street :
City, State and ZIP Code :

10. PAYEE (Where check is to be sent is different than item 9)
Name :
Number and Street :
City, State and ZIP Code :

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)	$	$	$	$
b. Less: Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances — 1st month				
2nd month				
3rd month				

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	$

13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
TYPED OR PRINTED NAME AND TITLE	TELEPHONE (AREA CODE, NUMBER, EXTENSION)

This space for agency use

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

UMTA PROJECT BUDGET LINE ITEM DATA ENTRY

PROJECT NUMBER [STATE] [ACTIVITY] [SEQ. NO.] (1 2 | 3 4 | 5 8)

GRANTEE/CONTRACTOR _____

CHANGE CODE [6 3 0] (9 11)

BUDGET REPORT AS OF DATE [M M D D Y Y] (56 61)

BUDGET LINE ITEM CODE (15 20)	PROJECT'S OBLIGATIONS INCURRED TO DATE (26 35)	ESTIMATED OBLIGATIONS REQUIRED TO COMPLETE (36 45)	ACCRUED EXPENDITURE TO DATE (46 55)

[6 3 1] (9 11) [ ] (26 28) ESTIMATED PERCENT COMPLETE

INSTRUCTIONS:

1. ENTER PROJECT NUMBER
2. ENTER 'AS OF' DATE FOR DATA BEING ENTERED FOR EACH RESPECTIVE BUDGET LINE ITEM
3. ENTER THE BUDGET LINE ITEM CODE
4. ENTER THE PROJECT'S CUMULATIVE OBLIGATIONS INCURRED THROUGH THE 'AS OF' DATE
5. ENTER ESTIMATED OBLIGATIONS REQUIRED TO COMPLETE THE PROJECT
6. ENTER THE CUMULATIVE ACCRUED EXPENDITURES THROUGH THE 'AS OF' DATE
7. ALL DATA FIELDS ARE REQUIRED
8. ENTER ESTIMATED PERCENT COMPLETE AS WHOLE NUMBER, e.g., 045 = 45%

PREPARED BY _____ DATE _____ APPROVED BY _____ DATE _____

UMTA F 1340.6 (REV. 01/72)

REQUISITION FINANCIAL REVIEW

Project No. _____ Requisition No. _____

____Grant contract executed.

Based upon the grantee's submission of revenue and expense information for the applicable period(s), the eligible UMTA funds for payment pursuant to this requisition are computed as follows. Notes or other supplementary information to support this calculation, as appropriate, are attached.

	Actual Period	Estimated Period
Total Operating Expenses	$ 169,955	$
less Ineligible Expenses		
less Non-Trans. Expenses		
less Contra-Expenses		
less Other Eliminations		
plus Contributed Services		
Eligible Operating Expenses	$	$
Less Revenues Applied		
Net Project Cost	$	$
Local Share:		
_____	$	$
_____		
_____		
_____		
_____		
TOTAL LOCAL SHARE:	$	$

Total Net Project Cost: $ _____
Total Local Share: $ _____

Total Net Expenses: $ _____
UMTA Funds Previously Requis.: $ _____
UMTA Funds Now Payable: $ _____

____Request for Advance or Reimbursement information is correct.
____MACS 1340.6 is correct.

The subject requisition financial review is now complete.

_____ DATE:
(Transportation Representative)

DEPARTMENT OF TRANSPORTATION

FORM APPROVED OMB NO. 80-R0181

REQUEST FOR ADVANCE OR REIMBURSEMENT

Federal Agency Accounting Symbol and Element

2. Federal Grant No. or Other Identifying No.: IL-05-4099

3. Type of Payment Requested
a. ☐ Advance
b. ☐ Final
☒ Reimbursement
☒ Partial

4. Basis of Report
☐ Cash
☒ Accrued Expenditures

5. Public Payment Voucher No.: 2

6. Employer Identification No.

7. Grantee Account No. or Identifying No.

8. For Grant Period
FROM: 1 | 1 | 77
TO: 6 | 30 | 77

9. Name of Grantee Organization
Midville Regional Trans. Auth.

Street No. and Name
P.O. Box 337

City: Midville, State: IL, ZIP Code: 60000

10. Name of Payee if Different than Item 9

Street No. and Name

City, State, ZIP Code

11. COMPUTATION OF AMOUNT REQUESTED

	PROGRAMS — FUNCTIONS — ACTIVITIES (1)	(2)	(3)	TOTAL	
a. Total program outlays to date as of 6/30/77	$	$	$	~~$404,800~~	312,600
b. Less: Cumulative program income				~~80,500~~	104,500
c. Net program outlays				~~324,300~~	208,100
d. Estimated net cash outlays for advance period				~~142,400~~	103,400
e. Total of Lines c and d				~~466,700~~	311,500
f. Non-Federal share of amount on Line e				~~236,200~~	240,800
g. Federal share of amount on Line e				~~230,500~~	70,700
h. Federal payments previously requested				40,700	40,700
i. Federal share now requested				~~189,800~~	30,000
j. Monthly advance requirements (1) 1st month: July				~~20,466~~	16,033
(2) 2nd month: August				~~20,467~~	6,967
(3) 3rd month: September				~~20,467~~	6,967

12. REMARKS (Attach additional sheets if necessary)

* Federal Share broken down as follows:
$9,099 for actual period 1/1/77 - 6/30/77
6,967 for July
6,967 for August
6,967 for September
$30,000 this requisition

J. Doe 8/4/77

13. I certify that to the best of my knowledge and belief the data reported above is correct and that all outlays were made in accordance with grant conditions and that payment is due and has not been previously requested.

Name	Title	TELEPHONE Area Code	Number	Ext.
L.R. Davis	General Manager	312	555	3337

Signature of Authorized Official: L.R. Davis

Date Report is Submitted: August 1, 1977

FOR AGENCY USE ONLY

FAA Form 5100-61 (6-73) SUPERSEDES FAA FORM 5100-6 5200-9

Sample Requisition Package

The following provides a sample requisition and review package for a hypothetical Section 5 grantee. In this example, note that the grantee has incorrectly calculated the eligibility for UMTA funds and has been corrected by the UMTA transportation representative.

REQUISITION FINANCIAL REVIEW

Project No. IL-05-4099 Requisition No. 2

____Grant contract executed.

Based upon the grantee's submission of revenue and expense information for the applicable period(s), the eligible UMTA funds for payment pursuant to this requisition are computed as follows. Notes or other supplementary information to support this calculation, as appropriate, are attached.

	Actual Period 1/1/77-6/30/77	Estimated Period 7/1/77-12/31/77
Total Operating Expenses	$ 404,800	$ 202,400
less Ineligible Expenses	83,000	41,500
less Non-Trans. Expenses	14,000	7,000
less Contra-Expenses	200	
less Other Eliminations		
plus Contributed Services	5,000	1,000
Eligible Operating Expenses	$ 312,600	$ 154,900
Less Revenues Applied	104,500	51,500
Net Project Cost	$ 208,100	$ 103,400

Local Share:

City Subsidy	$ 125,000	$ 60,000
Revenue Shg.	10,000	15,000
State Elderly Assit.	15,200	5,000
Advertising	3,100	1,500
Contributed Serv.	5,000	1,000
TOTAL LOCAL SHARE:	$ 158,300	$ 82,500

Total Net Project Cost:	$ 311,500
Total Local Share:	$ 240,800
Total Net Expenses:	$ 70,700
UMTA Funds Previously Requis.:	$ 40,700
UMTA Funds Now Payable:	$ 30,000

X Request for Advance or Reimbursement information is correct.
X MACS 1340.6 is correct.

The subject requisition financial review is now complete.

John A. Doe DATE: 8/8/77
(Transportation Representative)

STATEMENT OF REVENUES AND EXPENSES
Midville Regional Transit Authority
July-September, 1977 (Estimated)

Expenses:		$202,400
Transportation	$75,100	
Maintenance & Equipment	47,500	
Traffic & Advertising	2,500	
Insurance & Safety	7,700	
Administrative & General	20,500	
Taxes & Rents	6,600	
Depreciation & Amortization	41,500	
Interest	1,000	
Revenues:		$ 60,000
Passenger Farebox	$50,000	
Tokens & Transfers	1,000	
Charter Bus	7,000	
Advertising	1,500	
CETA	500	
Interest	0	
Subsidies:		$ 81,000
City of Midville	$60,000	
Revenue Sharing	15,000	
State Elderly Fares	5,000	
Contributed Services	1,000	

STATEMENT OF REVENUES AND EXPENSES
Midville Regional Transit Authority
June 30, 1977

Expenses:		$404,800
Transportation	$150,200	
Maintenance & Equipment	95,000	
Traffic and Advertising	5,000	
Insurance & Safety	15,000	
Administrative & General	41,300	
Taxes and Rents	12,900	
Depreciation & Amortization	83,000	
Interest	2,000	
Revenues:		$120,500
Passenger Farebox	$101,200	
Tokens & Transfers	2,000	
Charter Bus	14,000	
Advertising	3,100	
CETA	1,300	
Interest	200	
Subsidies:		$155,200
City of Midville	$125,000	
Revenue Sharing	10,000	
State Elderly Fares	15,200	
Contributed Services	5,000	

UMTA PROJECT BUDGET LINE ITEM DATA ENTRY

PROJECT NUMBER [TL] [C] [4] (STATE, ACTIVITY, SEQ NO.)

GRANTEE/CONTRACTOR MIDVILLE REGIONAL TRANSIT AUTHORITY

CHANGE CODE [630]

BUDGET REPORT AS OF DATE [06] [30] [77] (M M D D Y Y)

BUDGET LINE ITEM CODE	PROJECT'S OBLIGATIONS INCURRED TO DATE	ESTIMATED OBLIGATIONS REQUIRED TO COMPLETE	ACCRUED EXPENDITURE TO DATE
1.09.5.00	46,150	622,661	46,150
4.60.0.0	1,560	20,400	1,560

[631] [015] ESTIMATED PERCENT COMPLETE

INSTRUCTIONS:

1. ENTER PROJECT NUMBER
2. ENTER 'AS OF' DATE FOR DATA BEING ENTERED FOR EACH RESPECTIVE BUDGET LINE ITEM
3. ENTER THE BUDGET LINE ITEM CODE
4. ENTER THE PROJECT'S CUMULATIVE OBLIGATIONS INCURRED THROUGH THE 'AS OF' DATE
5. ENTER ESTIMATED OBLIGATIONS REQUIRED TO COMPLETE THE PROJECT
6. ENTER THE CUMULATIVE ACCRUED EXPENDITURES THROUGH THE 'AS OF' DATE
7. ALL DATA FIELDS ARE REQUIRED
8. ENTER ESTIMATED PERCENT COMPLETE AS WHOLE NUMBER, e.g., 045 = 45%

L R Davis — PREPARED BY — 8/1/77 — DATE

John A Cox — APPROVED BY — 8/8/77 — DATE

UMTA F 1340.6 (REV. 01/72)

Request for Payment Form

The attached form is currently used for requisition approvals at UMTA Headquarters. Its primary function is to provide continuity, accountability, and control during the approval process. Regional offices may wish to develop their own unique counterparts to this form, consistent with regional office organization, approval procedures, and specific procedures for the approval and control of requisitions provided in _____.

REQUEST FOR PAYMENT

FROM: AUTHORIZED OFFICIAL_____(OFFICE SYMBOL)

THRU: CONTROL ACTIVITY, UAD-21

TO: CERTIFYING OFFICER, UMTA, ACCOUNTING BRANCH, UAD-21, 2100 2ND ST., S.W., WASHINGTON, D.C. 20590

SUBJECT:			
	PROJECT NUMBER:	REQ. NUMBER	AMOUNT

☐ I HAVE APPROVED THE SUBJECT REQUISITION IN THE AMOUNT INDICATED.

_____ _____
AUTHORIZED SIGNATURE DATE

For UAD-21 Use Only:

FROM: VOUCHER EXAMINING ACTIVITY

TO: CERTIFYING OFFICER

☐ I HAVE RECEIVED THE SUBJECT REQUISITION AND RECOMMEND PAYMENT IN THE AMOUNT STATED ABOVE.

☐ I HAVE ADJUSTED THE PAYMENT REQUESTED TO THE AMOUNT OF $_____. THE REASON FOR THIS IS: _____

_____

_____

☐ I HAVE NOTIFIED THE ORIGINATING OFFICE AND THE UAD-21 CONTROL ACTIVITY OF THIS ADJUSTMENT.

_____ _____
INITIALS DATE

FROM: CERTIFYING OFFICER

TO: UAD-21 CONTROL ACTIVITY

☐ I HAVE REVIEWED THE REQUISITION DOCUMENTS AND I HAVE APPROVED THE AMOUNT RECOMMENDED FOR PAYMENT BY THE VOUCHER EXAMINING ACTIVITY.

_____ _____
INITIALS DATE

CHAPTER XIII
PROJECT AMENDMENT PROCEDURES

1. Introduction. An approved Section 5 operating assistance project may be amended at the grantee's request at any time prior to closeout. Typically, the purpose of such amendments is to adjust financial data formerly presented on an estimated basis to conform with actual figures which may justify a higher amount of UMTA operating assistance. In some situations, an approved grant may also be amended to add or remove one or more transit operators from those aggregated under a single project.

   Upon receipt, grantee requests for project amendments should be handled according to the same procedures outlined for new applications in Chapter 11, paragraph 2. The suffix 01 is added to the project number for an amended grant (02, 03, etc. for subsequent amendments to the same grant, if any). The procedures for receipt, control, MACS input, and acknowledgment to the grantee prescribed for new applications should be followed.

   This chapter presents procedures for the processing and approval of amendments to Section 5 operating assistance projects.

2. Technical Amendments. Technical amendments are employed only for the purpose of adjusting financial information on the approved project budget. All other basic conditions of the operating assistance project (i.e., designated recipient, grantee, mass transportation operators(s), project period, types of service provided, etc.) must remain constant.

   Technical amendments are commonly used when a grantee determines that actual financial data demonstrate eligibility for more or less UMTA funding that was originally approved. To request a technical amendment, the grantee must submit the following:

   - New application forms (see Chapter 6) indicating the request for an amendment and reflecting the revised financial information.
   - Certified resolution of the grantee authorizing the filing of the amendment (see Chapter 6).
   - New Exhibit A (project budget) reflecting the revised financial information and, if necessary, a new LOE schedule for the comparable period.

- A cover letter from the grantee which formally requests the amendment and "incorporates by reference all other exhibits, certifications, and assurances" contained in the original grant application. (Where the grantee is not the designated recipient, a separate cover letter from the designated recipient should also be submitted.)

- Amended TIP/AE to conform with the amendment, if necessary. Requirements and procedures concerning the amendment of TIP/AE's in such instances are provided in UMTA C 8000.1.

In general, grantees are discouraged from requesting technical amendments before final audited financial data for the project period are available. However, it is not specifically required that such amendments be based on audited data if the transportation representative is satisfied that there is a reasonable basis and need for an amendment based on other information.

Technical amendments do not require that a new public hearing be held, nor is it necessary to re-review the other application materials accepted at the time of initial grant approval. With regard to recertification of Section 13(c) labor protective arrangements, it will usually be sufficient to contact DOL and obtain verbal concurrence.

Under certain circumstances it may be proper to approve a technical amendment which adjusts conditions of the grant contract other than the basic financial data. In such situations, transportation representatives must consult with the regional office legal counsel to determine the necessary submission and review procedures.

Review of the material submitted by a grantee to support a technical amendment should proceed in the same fashion otherwise employed for the initial financial review.

3. Change in Scope Amendments. Change in scope amendments are employed for the purpose of adjusting one or more basic conditions of an approved Section 5 operating assistance grant. A change in scope may occur, for example, where a transit operator originally included in an aggregated grant application is to be removed or where an operator not originally included is to be added. A change in scope may also be needed where the types of transit service described in the original application change sufficiently to require a revised certification of Title VI, Section 3(e),

Section 13(c), or Section 5(m) compliance. Transportation representatives should always consult with the regional office legal counsel to determine when a change in scope amendment is warranted.

To request a change in scope amendment, the grantee must submit the same information required for a technical amendment. In addition, the grantee must submit revised application documents for any other item in the original application which has changed (e.g., Exhibit C). Change in scope amendments frequently require that another public hearing be held and that a new certification of labor protective arrangements under Section 13(c) be provided from the Department of Labor.

Change in scope amendments will also require an amendment to the original programming of a project in the approved TIP/AE.

Review of the material submitted by a grantee to support a change in scope amendment should proceed in the same fashion otherwise employed for the initial application review (see Chapter 11, paragraph 3).

4. Approval of Amendments. The same approval procedure outlined earlier should be used for amendments with appropriate modifications to the various approval documents employed to reflect the amendment. Attachment 1 provides a sample approval memorandum and grant award letter for a typical operating assistance amendment. Circulation of the amendment approval package, postapproval actions, and procedures for executing amendatory instruments to the grant contract should occur in the same fashion outlined in Chapter 11 for new applications.

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